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ABSTRACT

This resource guide has been designed to assist teachers and students in the study of key U.S. Supreme Court cases. Each of the 93 cases listed includes a presentation of the facts, issue, and decision of the Court. Twenty-five commonly used textbooks were analyzed to determine the extent to which they cited the Supreme Court cases. No text cited all of the cases, and some of the cases were not cited at all. References varied from simple references to more complete discussions; the textbooks discussed few cases in full. To assist teachers, the first section of this guide is a table that indicates which cases are cited in which textbooks. Cases are grouped by topic, e.g., Constitution; Civil Rights/Discrimination, Freedom of Expression, etc. The second section contains a bibliography of coded textbooks. The third section provides a brief synopsis of the cases. Because of the topical arrangement, teachers or students can review preceding or following cases to consider changes in precedents and gain a quick reference for further legal research. The fourth section includes strategies and activities highlighting the case study method. Appendices include a table of cases, a copy of the complete U.S. Constitution, and a glossary of terms. (SG)

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Revised Edition

Shaping American Democracy

U.S. Supreme Court Decisions

SO 030 454

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MARYLAND STATE BAR ASSOCIATION

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Shaping American Democracy

Revised Edition

Prepared by the

Citizenship Law-Related Program for the Schools of Maryland, Inc. of the Maryland State Bar Association and the Maryland State Education Department

and the

Law, Youth and Citizenship Program of the New York State Bar Association and the New York State Education Department

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On behalf of the Citizenship Law-Related Education Program for the Schools of Maryland, and the Law, Youth and Citizenship Program of the New York State Bar Association and the New York State Education Department, we would like to thank the following individuals without whose assistance this new edition of SHAPING AMERICAN DEMOCRACY: U.S. SUPREME COURT DECISIONS would not have been possible:

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This edition includes forty-one new cases for the total of ninety-four Supreme Court decisions and the review and codification of new textbooks released since our original publication date. This new edition would not have been possible without the hard work, dedication and commitment of:

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FOREWORD

THE IDEA OF LIBERTY

"Those who won our independence believed that the final end of the state was to make men free to develop their faculties: and that in its government the deliberative forces should prevail over the arbitrary. They valued liberty both as an end and as a means. They believed liberty to be the secret of happiness and courage to be the secret of liberty. They believed that freedom to think as you will and to speak as you think are means indispensable to the discovery and spread of political truth; that without free speech and assembly discussion would be futile; that with them discussion affords ordinarily adequate protection against the dissemination of noxious doctrine; that the greatest menace to freedom is an inert people; that public discussion is a political duty; and that this should be a fundamental principle of the American government...Those who won our independence by revolution were not cowards. They did not fear political change. They did not exault order at the cost of liberty."

Justice Louis D. Brandeis
Whitney v. California,
274 U.S. 357 at 375,
47 S.Ct. 641 at 648,
71 L.Ed. 1095 at 1105 (1927)

The historical account of the birth of this nation relates the painful philosophical, political, and moral dilemmas that faced those who became the moving forces for freedom and liberty in the colonies. What freedoms did they consider to be the cornerstone, not only of their own lives, but the lives of those who would come after them and participate as "citizens" of the United States?

Today's student is growing up in a world filled with technological explosions, social and economic unrest and political uncertainty. Students are restless and independent while striving to discover what is certain, stable, and secure. They want to investigate social problems as they relate specifically to themselves—i.e., the learning/teaching must be relevant to their perceptions of the world and their need to understand where they fit in this complex society.

At the present time, we are preparing for the celebration of the continued existence, in both word and spirit, of the Constitution of the United States. This unique document was an attempt to set down the fundamental principles upon which a nation and its citizenry would live, by which its officials shall be bound, its lawmakers governed, and its citizens protected. But, no matter how well written, those guarantees can have no meaning without an understanding of their significance and impact upon the lives of each individual citizen.

It is amazing how much we rely upon and take for granted, yet how little we know about the individual guarantees in the body of the Constitution. The guarantees of a right to a jury trial in federal criminal cases, the right to vote, the right of habeas corpus, and the prevention of bills of attainder are such examples. In addition, the American governmental structure itself, as set forth by the Constitutional framers, contains inherent protections for the individual citizen. The separation of powers in the national government and the division of authority between the national and

state governments have contributed to the preservation of liberty. However, if students learn only what is written, they will understand little about the basic sources of protection for themselves and all other citizens.

It is necessary that students be allowed to explore the Constitution for its continuance as the foundation for American life is dependent upon an informed public. The Constitution must be analyzed and discussed as a document relevant to these times. Students must be given the opportunity to learn the system of law which emanates from the Constitution as one which is not blind to changes in society (i.e., human needs and conditions), but has the capacity to adapt to those changes while still preserving the core of human liberties enumerated in the Constitution and the Bill of Rights.

We can broaden our own and our students' appreciation of what "freedom" and "liberty" are and what it means to be an American citizen— a recipient of those guarantees — through an examination of some of the difficult conflicts presented to the Supreme Court which involve the interpretation of those guarantees. In the protection of individual rights, the role of the judiciary has become increasingly important.

Today, cases come before the Supreme Court concerning the relationship between the individual and the government, between the State and the Federal Government and also conflicts arising between the different branches of the Federal Government. Changes that have occurred have come about as a result of the expanding dimensions of similar problems faced and decided by the Court.

The Court has been and is, a major agent in the arena of ever changing political and social conflicts. The study of the decisions of the United States Supreme Court can assist students in understanding the evolution of laws as well as the social and political times in which they were decided.

INTRODUCTION

The study of key United States Supreme Court cases has become an essential element in the development of an understanding of American History. Yet, in some commonly used secondary United States History textbooks and other resource materials, many very significant cases are barely mentioned. Other important cases, especially those dealing with controversial areas, are rarely cited at all. However, we are pleased to note, that in the five years since *Shaping American Democracy* was published, many more Supreme Court cases are being covered in the new editions of textbooks.

Students, in order to understand the significance of these key cases, must do far more than simply memorize the names of the cases. Basically, students must understand the specifics of the case, be aware of its broader implications and be able to apply the legal principles to related situations.

One major reason for developing these materials was to facilitate the use of the case study method. Accordingly, students are provided the opportunity to determine the facts, state the issues, and understand the decision relevant to each case. In addition, the students must understand the social, political, and economic environment out of which the case emerged and analyze and assess the impact of the decision upon the American society.

Obviously, in a publication such as this, the selection of cases, and the criteria used become very important. During the selection process, cases were assessed according to the following:

- Significant long-term impact upon American society. Cases selected must involve landmark decisions in key aspects of society.
- The case is a reflection of the times. Cases selected should be representative of specific historical periods in United States history.
- Major contribution to the ongoing development of Constitutional law. Cases selected must have played a key role in the development of Constitutional law.

This publication is not, and should not be used as a primary United States History textbook. However, it should be used to supplement a wide variety of textbook and classroom resources.

A study of relevant cases would be especially useful as the students explore topics such as the following:

- Human rights
- Civil rights
- Evolution of Constitutional Law
- Federal/State relations
- Executive/Legislative/Judicial relations; Times of economic, political, or military crisis, such as war time and the Great Depression.
- Periods of rapid social, economic, or political change.

However, the real value of this publication will be realized as teachers and students work together to put key Supreme Court cases into the student's expanding view of Constitutional history and the role of Constitutional law, in the past, the present, and the future.

HOW TO USE SHAPING AMERICAN DEMOCRACY

The format of this resource guide has been designed to assist teachers and students in the study of key Supreme Court cases. First, as has been indicated above, each of the ninety-three cases has been presented with the facts, issue, and decision of the Court. Second, twenty-five commonly used textbooks were analyzed to determine the extent to which Supreme Court cases are cited.

It was discovered that no text cited all of the cases and that some cases were cited in none of the texts. Furthermore, it was ascertained that the references to various cases, when cited at all, may vary from a simple reference to a more complete discussion. However, few cases are ever discussed in full. The cases presented in this supplement provide the students with enough information to understand the facts, issue, and decision of the Court.

To assist teachers, the first section is a table which indicates which cases are cited in which textbooks. This table is developed topically, according to the major concept around which the cases have been categorized. Specific legal case citations are also included. The second section contains the bibliography of coded textbooks.

The third section provides a brief synopsis of the ninety-three Supreme Court cases. Since they are listed by category, teachers or students can review preceding or following cases to consider changes in precedents and also gain a quick reference for further legal research.

The fourth section includes a number of strategies and activities highlighting the case study method. Teachers are encouraged to adopt, or adapt these sample activities to fit their students' needs.

In the Appendices, a copy of the United States Constitution and the Amendments thereto may be found. A Glossary of Legal Terms has also been included. The addition of such a glossary provides a real service to the student or teacher, who for the first time must deal with a new vocabulary.

TABLE OF CASES AND TEXTBOOK REFERENCES

The Table of Cases provides the reader with information as to which Supreme Court Cases are included in which textbooks. An alphabetical code (A,B,C, etc.) has been assigned to each textbook. The bibliography of Textbooks shows the code assignments. In addition, the cases which are included in this booklet are identified by a "bullet" ●.

SUPREME COURT DECISIONS	CITATION	DATE	CODES
	CONSTITUTION		
Fletcher v. Peck	10 U.S. 87	1810	A,C,T
Ex Parte Garland	71 U.S. 333	1867	N,●
Texas v. White	74 U.S. 700	1869	N,●
Hepburn v. Griswold	75 U.S. 603	1870	C,●
Kilbourn v. Thompson	103 U.S. 168	1881	C,●
Julliard v. Greenman	110 U.S. 421	1884	C,●
Chae Chan Ping v. U.S.	130 U.S. 581	1889	C,●
Virginia v. Tennessee	148 U.S. 503	1893	C
Fong Yue Ting v. U.S.	149 U.S. 698	1893	C
Pollock v. Farmer's Loan & Trust Co.	158 U.S. 601	1895	K,N,T,●
Arver v. United States	245 U.S. 366	1918	C,●
Missouri v. Holland	252 U.S. 416	1920	C,N,●
Schechter Poultry Corp. v. United States	295 U.S. 495	1935	A,O,R,T,X
United States v. Belmont	301 U.S. 324	1937	C,●
Nat'l Labor Rel. Bd. v. Jones & Laughlin Steel Corp.	331 U.S. 868	1937	N,●
Pink v. United States	303 U.S. 642	1942	C
Wickard v. Filburn	317 U.S. 111	1942	D,●
United States v. Lovett	328 U.S. 303	1946	C,D

United States v. Brown	381 U.S. 437	1965	C
Afroyim v. Rusk	387 U.S. 253	1967	C,●
Diamond v. Chakrabarty	444 U.S. 1028	1980	Y
Sporhase v. Nebraska	454 U.S. 1079	1982	Y

CRUEL AND UNUSUAL PUNISHMENT

Wilkerson v. Utah	99 U.S. 130	1879	C,N
In re Kemmler	136 U.S. 436	1890	C,N
Weems v. United States	217 U.S. 349	1910	N
Prince v. Massachusetts	321 U.S. 158	1944	C
Louisiana ex rel. Francis v. Resweber	329 U.S. 459	1947	C,N,P
Trop v. Dulles	356 U.S. 86	1958	N
Robinson v. California	370 U.S. 660	1962	C,N
Furman v. Georgia	408 U.S. 238	1972	C,D,H,I,N,O, P,U,V,Y,●
Woodson v. North Carolina	428 U.S. 280	1976	C,O
Gregg v. Georgia	428 U.S. 153	1976	C,N,O,U,Y,●
Roberts v. Louisiana	431 U.S. 633	1977	C
Rummel v. Estelle	445 U.S. 263	1980	C
Rhodes v. Chapman	101 S.Ct. 2392	1981	C
Eddings v. Oklahoma	455 U.S. 104	1982	●
Solem v. Helm	459 U.S. 986	1983	C
McCleskey v. Kemp	481 U.S. 279	1987	●

CIVIL RIGHTS/DISCRIMINATION

Dred Scott v. Sanford	60 U.S. 393	1857	A,C,D,F,J,K,N, O,P,Q,R,S,W,Y,●
Bradwell V. State of Illinois	83 U.S. 130	1873	C,N
Plessy v. Ferguson	163 U.S. 537	1896	A,B,C,D,F,G,H,I,N, O,P,Q,R,S,T,W,Y,●

United States v. Wong Kim Ark	169 U.S. 649	1898	C
Muller v. Oregon	208 U.S. 412	1908	N
Missouri ex rel. Gaines v. Canada	305 U.S. 676	1938	C,N
Hirabayashi v. United States	63 S.Ct. 860	1943	N
Korematsu v. United States	323 U.S. 214	1944	C,N,O,T,V,●
Brown v. Topeka Bd. of Ed.	347 U.S. 214	1944	A,C,D,F,G,H,I,K,N, O,Q,R,S,T,V,X,Y,●
Smith v. Allwright	322 U.S. 769	1944	C,D,N
Sweatt v. Fainter	330 U.S. 629	1950	N
McLaurin v. Oklahoma State Regents	339 U.8. 637	1950	N
Dawson v. Baltimore	350 U.S. 877	1955	C
Gayle v. Browder	352 U.S. 903	1956	C
Cooper v. Aaron	358 U.S. 1	1958	O
Gomillion v. Lightfoot	364 U.S. 339	1960	C,N
Hoyt v. Florida	368 U.S. 57	1961	C,O
Noto v. United States	367 U.S. 290	1961	C
Griffin v. Prince Edward County Bd. of Ed.	377 U.S. 218	1964	N
Heart of Atlanta Motel v. U.S.	379 U.S. 241	1964	C,D,K,N
Katzenbach v. McClung	379 U.S. 294	1964	N
Loving v. Virginia	388 U.S. 1	1967	C,V,●
Jones v. Mayer (Alfred H.)	392 U.S. 409	1968	C,D,N,U
Lee v. Washington	390 U.S. 333	1968	C
Alexander v. Holmes County Bd. of Ed.	386 U.S. 976	1969	C
Swann v. Charlotte-Mecklenberg Bd. of Ed.	402 U.S. 1	1971	C,D,N,Y

Phillips v. Martin Marietta Corp.	400 U.S. 542	1971	N,P
Griggs v. Duke Power Company	401 U.S. 424	1971	N
Reed v. Reed	404 U.S. 71	1971	C,N,O,K,●
Frontiero v. Richardson	411 U.S. 677	1973	C,N
San Antonio Ind School District v. Rodrigues	411 U.S. 1	1973	D,H,N,●
Milliken v. Bradley	429 U.S. 958	1974	A,K
Kahn v. Shevin	416 U.S. 351	1974	C,N
Cleveland Bd. of Ed. v. LaFleur	414 U.S. 632	1974	G
Lau v. Nichols	414 U.S. 563	1974	N,O
Stanton v. Stanton	421 U.S. 7	1975	C,G
Schlesinger v. Ballard	419 U.S. 498	1975	N
Craig v. Boren	429 U.S. 190	1976	C,G,N,●
Runyan v. McCrary	427 U.S. 160	1976	C
Nashville Gas v. Satty	434 U.S. 136	1977	N
Califano v. Goldfarb	430 U.S. 199	1977	C,N
Dothard v. Rawlinson	433 U.S. 321	1977	C,N
University of California v. Bakke	438 U.S. 265	1978	A,C,D,I,N,V,Y
Los Angeles Dept. of Water & Power v. Manhart	435 U.S. 702	1978	N
Orr v. Orr	440 U.S. 268	1979	C,N
United Steelworkers of America v. Weber	443 U.S. 193	1979	C,N,O
Caban v. Mohammed	441 U.S. 380	1979	C,N
Califano v. Webster	430 U.S. 313	1979	N
Fullilove v. Klutznick	448 U.S. 448	1980	C,N
Michael M. v. Superior Court of Sonoma	450 U.S. 464	1981	C,N

Rostker v. Goldberg	448 U.S. 1036	1981	C,N,K
North Haven v. Bell	456 U.S. 512	1982	N
Mississippi Univ. for Women v. Hogan	458 U.S. 718	1982	N
Goldsboro Christian Schools v. United States	454 U.S. 892	1983	C
Bob Jones Univ. v. U.S.	103 S.Ct. 2017	1983	C,N
Ariz. Governing Comm. v. Norris	463 U.S. 1073	1983	C
Kolender v. Lawson	461 U.S. 352	1983	●
Grove City v. Bell	465 U.S. 555	1984	N
Firefighters Local Union No. 1784 v. Stotts	467 U.S. 561	1984	N
Roberts v. U.S. Jaycees	468 U.S. 609	1984	N
Local 93 v. City of Cleveland	106 S.Ct. 3063	1986	C,N
Wygant v. Jackson Bd. of Ed.	106 S.Ct. 1842	1986	C,I,N
Shaare Tefila Congreg. v. Cobb	481 U.S. 615	1987	C,●
Johnson v. Santa Clara Co. California	107 S.Ct. 1442	1987	C
St. Francis College v. Al-Khazraji	481 U.S. 604	1987	C,●
NY State Club Association v. City of New York	108 S.Ct. 2225	1988	●

FREEDOM OF ASSEMBLY/ASSOCIATION

Herndon v. Lowry	301 U.S. 242	1927	K
DeJonge v. Oregon	299 U.S. 353	1937	C,K,O
Thornhill v. Alabama	310 U.S. 88	1940	N,0
Cox v. New Hampshire	312 U.S. 569	1941	C,P,●
NAACP v. Alabama ex rel. Patterson	357 U.S. 449	1958	●
Communist Party v. SACB	367 U.S. 1	1961	C,●

Edwards v. South Carolina	372 U.S. 229	1963	D,I,N
Shuttlesworth v. City of Birminghan	38 U.S. 87	1965	N
Gregory v. Chicago	394 U.S. 111	1969	C,N,O,Y
Coates v. Cincinnati	402 U.S. 611	1971	C,N,O,●
Lloyd Corporation v. Tanner	407 U.S. 551	1972	C,N,Y
Police Dept. of Chicago v. Mosley	408 U.S. 92	1972	C,N
Grayned v. City of Rockford	408 U.S. 104	1972	C
Pruneyard Shopping Center v. Robbins	447 U.S. 74	1980	C,Y
Democratic Party v. LaFollette	450 U.S. 107	1981	N,●
Bd. of Dir. of Rotary Int'l v. Rotary Club of Duarte	481 U.S. 537	1987	C,N,●

FREEDOM OF EXPRESSION / SPEECH / PRESS

Mutual Film Corp. v. Ohio	236 U.S. 247	1915	C,N
Abrams v. United States	250 U.S. 616	1919	C
Schenck v. United States	249 U.S. 47	1919	C,D,I,K,N,U,Y,●
Gitlow v. New York	268 U.S. 652	1925	C,D,I,K,N,O,P,Y,●
Fiske v. Kansas	274 U.S. 380	1927	C
United States v. Schwimmer	279 U.S. 644	1929	C
Stromberg v. California	283 U.S. 359	1931	C,K
Near v. Minnesota	283 U.S. 697	1931	C,K,N,O,Y,●
Lovell v. City of Griffin	303 U.S. 444	1937	Y
Hague v. CIO	307 U.S. 496	1938	Y
Schneider v. Irvington, NJ	308 U.S. 147	1939	Y
Thornhill v. Arizona	310 U.S. 88	1940	C
Milkwagon Drivers Union v. Meadowmoor Dairies	308 U.S. 637	1941	N

Jamison v. Texas	318 U.S. 413	1942	Y
Burstyn v. Wilson	343 U.S. 49S	1942	C,N,●
National Broadcasting Co. v. United States	63 S.Ct. 267	1942	C
Chaplinsky v. New Hampshire	315 U.S. 568	1942	I,N
American Comm. Assoc. v. Douds	339 U.S. 382	1950	●
Dennis v. United States	341 U.S. 494	1951	C,D,K,N,O,Y
Feiner v. New York	340 U.S. 315	1951	I,N
United States v. Harris	60 S.Ct. 979	1954	C
Roth v. United States	354 U.S. 476	1957	C,D
Yates v. United States	354 U.S. 298	1957	C,D,N,O,●
Tally v. California	362 U.S. 60	1959	Y
Scales v. United States	367 U.S. 203	1961	C
New York Times v. Sullivan	376 U.S. 254	1964	C,D,I,N,Y
Cox v. Louisiana	379 U.S. 536	1965	C,G,P
Adderly v. Florida	385 U.S. 39	1966	N,O
Sheppard v. Maxwell	384 U.S. 333	1966	C,D,N,O
United States v. O'Brien	391 U.S. 367	1968	C,N
Teitel Film Corp. v. Cusack	390 U.S. 139	1968	C
Brandenburg v. Ohio	395 U.S. 44	1969	N,O
Stanley v. Georgia	394 U.S. 557	1969	C
Tinker v. DesMoines Ind. Community School District	393 U.S. 503	1969	B,C,D,I,K,N,O,V,●
Walsh v. United States	449 U.S. 994	1970	N
New York Times v. U.S.	403 U.S. 713	1971	C,I,N,O,Y,●
U.S. v. Thirty-Seven Photographs	402 U.S. 363	1971	C
United States v. Reidel	402 U.S. 351	1971	C

United States v. Caldwell	408 U.S. 665	1972	N
Cohen v. California	403 U.S. 15	1972	Y
Gertz v. Robert Welch, Inc.	418 U.S. 323	1973	I
Miller v. California	413 U.S. 15	1973	C,D,I,K,N,O,P,V,Y,●
United States v. Orito	413 U.S. 139	1973	O
Smith v. Goguen	15 U.S. 566	1974	C
Bigelow v. Virginia	421 U.S. 809	1975	C
Kelley v. Johnson	425 U.S. 238	1976	C
VA State Bd. of Pharmacy v. VA Citizens Consumer Council	425 U.S. 748	1976	C
Nebraska Press Assoc. v. Stuart	427 U.S. 539	1976	C,O,●
Young v. American Mini Theatres	427 U.S. 50	1976	C
Buckley v. Valeo	424 U.S. 1	1976	C,Y
Greer v. Spock	424 U.S. 828	1976	C
Bates v. State Bar of Arizona	433 U.S. 350	1977	C,N
Wooley v. Maynard	430 U.S. 705	1977	C
First National Bank of Boston v. Bellotti	435 U.S. 765	1978	C
FCC v. Pacifica Foundation	434 U.S. 1008	1978	C
Gannet Co., Inc. v. DePasquale	443 U.S. 368	1979	O
Richmond Newspapers, Inc. v. Virginia	448 U.S. 555	1980	C,O,●
Consolidated Edison v. Public Service Commission of NY	447 U.S. 530	1980	C
Hutchinson v. Proxmire	443 U.S. 111	1980	C,P
NY State Liquor Authority v. Bellanca	452 U.S. 714	1981	C
California Medical Assoc. v. Federal Election Commission	453 U.S. 182	1981	C

Schad v. Borough of Mount Ephraim	452 U.S. 61	1981	C
U.S. Postal Serv. v. Council of Greenburgh Civic Assoc.	453 U.S. 114	1981	C
New York v. Ferber	458 U.S 747	1982	●
Bd. of Ed., Island Trees Union Free School Distr. v. Pico	457 U.S. 853	1982	●
Village of Hoffman Estate v. The Flipside	455 U.S. 489	1982	C
Clark v. Community for Creative Non-Violence	104 S.Ct. 3065	1984	C
FCC v. League of Women Voters of California	104 S.Ct. 3106	1984	C
Fed. Election Comm. v. Nat'l Conserv. Pol. Action Com.	105 S.Ct. 1459	1985	N
Democr. Nat'l Comm. v. Nat'l Conserv. Pol. Action Com.	105 S.Ct .1459	1985	N
Red Lion Broad. Company v. FCC	395 U.S. 367	1986	C
Posadas de Puerto Rico Asso. v. Tourism Co. of Puerto Rico	106 S.Ct. 2968	1986	C
Renton v. Playtime Theatres, Inc.	106 S.Ct. 925	1986	C
Pacific Gas & Elec. Co. v. Public Utilities Commission of CA	106 S.Ct. 903	1986	C
Bethel School District v. Fraser	478 U.S. 675	1986	●
Hazelwood v. Kuhlmeier	108 S.Ct. 562	1988	●

FREEDOM OF RELIGION/ESTABLISHMENT CLAUSE

Reynolds v. United States	98 U.S. 145	1879	C,D,I,N,O,V
People v. Peirson	191 U.S. 562	1903	N
Jacobson v. Massachusetts	197 U.S. 11	1905	C
Pierce v. Society of Sisters	268 U.S. 510	1925	C
Cochran v. Louisiana Bd. of Ed.	281 U.S. 370	1930	C

Cantwell v. Connecticut	301 U.S. 296	1940	C,K
Minersville Sch. Distr. v. Gobitis	310 U.S. 586	1940	C,N,O,Y,●
W. Virginia Bd. of Ed. v. Barnette	319 U.S. 624	1943	C,E,N,O,Y,●
Everson v. Board of Education	330 U.S. 1	1947	C,D,N,O
McCollum v. Board of Education	333 U.S. 203	1948	C,D,N,O,●
Bunn v. North Carolina	336 U.S. 971	1949	C,N
Zorach v. Clauson	343 U.S. 306	1952	C,N
McGowan v. Maryland	366 U.S. 420	1961	C
Torcaso v. Watkins	367 U.S. 488	1961	C,O
Engel v. Vitale	370 U.S. 421	1962	C,D,I,K,N,O,●
Sherbert v. Verner	374 U.S. 398	1963	C,N
Sch. Distr. of Abington Township v. Schempp	374 U.S. 203	1963	C,N,O,●
Murray v. Baltimore School Board	371 U.S. 809	1963	C,Y
Epperson v. Arkansas	393 U.S. 97	1968	C
Board of Education v. Allen	392 U.S. 236	1968	C
Welsh v. United States	398 U.S. 333	1970	C,D
Walz v. Tax Commission of New York	397 U.S. 664	1970	C,N
Earley v. Dicenso	403 U.S. 602	1971	C
Braunfeld v. Brown	366 U.S. 599	1971	N
Lemon v. Kurtzman	403 U.S. 602	1971	C,N,Y
Tilton v. Richardson	403 U.S. 372	1971	C
Wisconsin v. Yoder	406 U.S. 205	1972	C,D,I,N,U,V,Y,●
Hunt v. McNair	413 U.S. 734	1973	C
Levitt v. Committee for Education	413 U.S. 472	1973	C

Meek v. Pittinger	421 U.S. 349	1975	C
Roemer v. Board of Public Works	426 U.S. 736	1976	C
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McDaniel v. Paty	435 U.S. 618	1978	C
Committee for Pub. Ed. v. Regan	444 U.S. 646	1980	C
Stone v. Graham	101 S.Ct. 192	1980	C
Widmar v. Vincent	450 U.S. 909	1981	O,N
Thomas v. Indiana Review Board of Emp. Secur. Div.	450 U.S. 707	1981	C
Heffron v. Society for Krishna Consciousnes	449 U.S. 1109	1981	C
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Lubbock Indep. School Distr. v. Lubbock Civil Liberties Union	459 U.S. 1155	1983	C
Murray v. Curlett	374 U.S. 203	1983	N
Marsh v. Chambers	463 U.S. 783	1983	C,N
Lynch v. Donnelly	465 U.S. 668	1984	C,I,Y,●
Grand Rapids Sch. Distr. v. Ball	473 U.S. 373	1985	C
Wallace v. Jaffree	459 U.S. 1314	1985	C,N,●
Goldman v. Weinberger, Secretary of Defense	106 S.Ct. 1310	1986	C,N
Hobbie v. Florida	107 S.Ct. 1046	1987	C
Edwards v. Aguillard	107 S.Ct. 2573	1987	C

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Ex Parte Merryman	76 U.S. 592	1861	C

Ex Parte Milligan	4 Wall. 2	1867	C,K,P,T
Strauder v. West Virginia	100 U.S. 303	1880	C
Hurtado v. California	110 U.S. S16	1884	C
Moore v. Dempsey	261 U.S. 86	1923	C
Powell v. Alabama	287 U.S. 45	1932	I,N
Norris v. Alabama	294 U.S. 587	1935	P,Y
Palko v. Connecticut	302 U.S. 319	1937	K
Johnson v. Zerbst	304 U.S. 458	1938	I
Betts v. Brady	3l6 U.S. 455	1942	G,N,O,●
Ashcraft v. United States	361 U.S. 925	1944	C
Cole v. Arkansas	338 U.S. 196	1948	N
In re Oliver	333 U.S. 257	1948	C,N
Stack v.Boyle	342 U.S. 1	1951	C
Hernandez v. Texas	374 U.S. 475	1954	N
Gideon v. Wainwright	372 U.S. 335	1963	A,C,D,G,I,N,O,V,Y,●
Aptheker v. Rust	378 U.S. 500	1964	C
Escobedo v. Illinois	378 U.S. 478	1964	A,C,D,H,N,O,V,Y,●
Malloy v. Hogan	378 U.S. 1	1964	C,I,N
Abertson v. SACB	382 U.S. 70	1965	C
Pointer v. Texas	380 U.S. 400	1965	C,N
Estes v. Texas	381 U.S. 532	1965	C,I
Miranda v. Arizona	384 U.S. 436	1966	A,B,C,D,F,H,I,K, N,O,U,V,Y,●
Washington v. Texas	388 U.S. 14	1967	C,N
In re Gault	387 U.S. 1	1967	D,G,H,I,V
Klopfer v. North Carolina	386 U.S. 213	1967	C,N
Duncan v. Louisiana	391 U.S. 145	1968	C,N

Benton v. Maryland	395 U.S. 784	1969	C,N
Illinois v. Allen	397 U.S. 337	1970	N,Y
In re Winship	397 U.S. 387	1970	V
Harris v. New York	401 U.S. 222	1971	K,V
McKeiver v. Pennsylvania	430 U.S. 528	1971	V
Argersinger v. Hamlin	407 U.S. 25	1972	I,N
One Lot Emerald Cut Stones & One Ring v. U.S.	409 U.S. 232	1972	C
Barker v. Wingo	407 U.S. 514	1972	C,N
Goss v. Lopez	419 U.S. 565	1975	V,●
Taylor v. Louisiana	419 U.S. 522	1975	C,N
Ballew v. Georgia	160 U.S. 187	1978	C
Burch v. Louisiana	441 U.S. 130	1979	C
Trammel v. United States	445 U.S. 40	1979	C
Scott v. Illinois	440 U.S. 367	1979	N
United States v. DiFrancesco	449 U.S. 117	1980	C,N
Payton v. New York	445 U.S. 573	1980	O
Chandler v. Florida	101 S.Ct. 802	1981	C
Weaver v. Graham	101 S.Ct. 960	1981	C
Jones v. United States	463 U.S. 354	1983	●
Berkermer v. McCarty	104 S.Ct. 3138	1984	C
Schall v. Martin	467 U.S. 253	1984	C,●
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Ake v. Oklahoma	105 S.Ct. 1087	1985	C
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United States v. Payner	447 U.S. 727	1988	C

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Hylton v. United States	3 U.S. 171	1796	C
Marbury v. Madison	5 U.S. 137	1803	A,C,D,F,G,H,I,J,K, N,O,P,Q,S,T,W,Y,●
Martin v. Hunter's Lessee	14 U.S. 304	1816	A,K,T
McCulloch v. Maryland	17 U.S. 316	1819	A,D,F,I,K,M,N, Q,T,W,Y,●
Dartmouth College v. Woodward	17 U.S. 518	1819	A,Q,T,W
Cohens v. Virginia	19 U.S. 264	1821	A
Gibbons v. Ogden	22 U.S. 1	1824	C,D,K,N,O,Q,T,W,Y,●
Barron v. Baltimore	32 U.S. 243	1833	C,D.N,0,Y,●
Charles River Bridge v. Warren Bridge	36 U.S. 420	1837	K
Prigg v. Pennsylvania	41 U.S. 539	1840	K
Luther v. Borden	48 U.S. 1	1849	C,K,N
Kentucky v. Dennison	66 U.S. 66	1861	C,D,N
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Davidson v. New Orleans	96 U.S. 97	1878	C
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U.S. v. E.C. Knight Co.	156 U.S. 1	1895	X
In re Debs	158 U.S. 564	1896	D
DeLima v. Bidwell	182 U.S. 1	1901	●
Lochner v. New York	198 U.S. 45	1905	K
Coyle v. Smith	221 U.S. 559	1911	C

Hammer v. Dagnehett	247 U.S. 251	1918	Y
Hawke v. Smith	253 U.S. 231	1920	C
Myers v. United States	272 U.S. 52	1926	C,K,N
Vill. of Euclid v. Amber Realty Co.	272 U.S. 363	1926	N,●
Humphrey's Executor v. U.S.	295 U.S. 602	1935	C,N
Curtiss-Wright v. United States	299 U.S. 304	1936	D
United States v. Butler	297 U.S. 1	1936	A,R,T,X
Ashwander v. TVA	297 U.S. 288	1936	D,N
Williams v. North Carolina	436 U.S. 906	1945	C,I
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U.S. v. U.S. District Court	407 U.S. 297	1972	C
United States v. Nixon	418 U.S. 683	1974	D,N,O,Y,●
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Nat'l League of Cities v. Usery	426 U.S. 833	1976	●
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Immigr. & Natural. Serv. v. Chadha	462 U.S. 919	1983	I,N,Y
Garcia v. San Antonio Metropolitan Transit Authority	105 S.Ct. 1005	1985	●
Bowsher v. Synar	106 S.Ct. 3181	1986	N
Morrison v. Olson	108 S.Ct. 2597	1988	●

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Weeks v. United States	232 U.S. 383	1914	C,D,G,I,N,O
Hester v. United States	265 U.S. 57	1924	C

Carroll v. United States	267 U.S. 132	1925	C
Olmstead v. United States	277 U.S. 438	1928	C,D,N,O,V,●
Rochin v. California	342 U.S. 165	1952	C,N
Mapp v. Ohio	367 U.S. 643	1961	C,D,G,I,N,O,V,Y,●
Griswold v. Connecticut	381 U.S. 479	1965	N
Schmerber v. California	384 U.S. 787	1966	C
Katz v. United States	389 U.S. 347	1967	C,D,I,N,O,Y,●
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Terry v. Ohio	392 U.S. 1	1968	N
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Adams v. Williams	407 U.S. 143	1972	D
Doe v. Bolton	410 U.S. 179	1973	V
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United States v. Calandra	414 U.S. 338	1974	C
United States v. Matlock	415 U.S. 164	1974	N
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United States v. Leon	104 S.Ct. 3405	1983	C,I,N,V
Illinois v. Lafayette	463 U.S. 640	1983	C
Massachusetts v. Sheppard	468 U.S. 981	1984	●
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California v. Carney	105 S.Ct. 1809	1985	C
New Jersey v. T.L.O.	469 U.S. 325	1985	I,N,●
Thornburgh v. American College of Obstetricians	106 S.Ct. 2169	1986	N
Dow Chemical Co. v. U.S.	106 U.S. 1819	1986	C,N
California v. Ciraolo	106 S.Ct. 1809	1986	C,N
Maryland v. Garrison	480 U.S. 79	1987	●

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Guinn v. United States	238 U.S. 347	1915	C,N
Wood v. Broom	287 U.S. 1	1932	C
Colegrove v. Green	66 S.Ct. 684	1946	G,Y
Baker v. Carr	369 U.S. 186	1962	A,D,I,N,O,C,Y,●
Wesberry v. Sanders	376 U.S. 1	1964	C,D,I,N,O,Y
Reynolds v. Sims	377 U.S. 533	1964	C,D,G,I,N,O,Y,●
South Carolina v. Katzenbach	383 U.S. 301	1966	C,K,N
Harper v. VA State Bd. of Elections	383 U.S. 663	1966	C,N
Avery v. Hidland Township	390 U.S. 474	1968	C,N
Oregon v. Mitchell	400 U.S. 112	1970	C,P
Dunn v. Blumstein	405 U.S. 330	1972	C
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Tashjian v. Republican Party of CT	107 S.Ct. 544	1986	C

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Pleasant Grove v. United States	479 U.S. 462	1987	●

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United States v. Miller	307 U.S. 174	1939	C,Y,●

INVOLUNTARY SERVITUDE

Pollock v. Williams	322 U.S. 4	1944	C,●
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SUPREME COURT CASES

THE CONSTITUTION

33

Congressional Immunity Clause (Art I, Sec 6, Clause 1)

Kilbourn v. Thompson, 103 U.S. 168, 26 L.Ed. 377 (1881)

FACTS: Hallett Kilbourn was summoned to appear before a committee of the House of Representatives to answer questions on a matter the committee was investigating. Kilbourn refused to answer questions as well as produce certain records, maps and papers. As a result, he was cited for contempt of Congress.

ISSUES:

1. Does the House of Representatives have the power to punish for contempt individuals who refuse to testify before congressional committees?

2. Are congressional representatives protected against civil liability for their actions or speech when done in a session and in relation to business being conducted before Congress?

DECISION:

1. No.

2. Yes. Although the Court held that the investigation was outside the legitimate powers of Congress, the speech or debate clause protected the congressional representatives who voted for the contempt from a civil suit for false imprisonment. The Court defined the scope of congressional immunity to ". . . things generally done in a session of (Congress) by one of its members in relation to the business before it."

Commerce Clause (Art I, Sec 8, Clause 3)

National Labor Relations Board v. Jones & Laughlin Steel Corp., 301 U.S., 57 S.Ct. 615, 81 L.Ed. 893 (1937)

FACTS: In a proceeding, under the National Labor Relations Act of 1935, the National Labor Relations Board found that the Jones and Laughlin Steel Corporation had violated the act by engaging in unfair labor practices. The National Labor Relations Board tried to enforce the provisions of the Act, and the corporation failed to comply. The Circuit Court of Appeals refused to enforce the order of the Board, holding that the order lay beyond the range of federal power.

ISSUE: Can Congress regulate labor relations under its interstate commerce power?

DECISION: Yes. The Court stated that the fundamental principles of the commerce clause are ". . . that the power to regulate commerce is the power to enact all appropriate legislation for its protection or advancement. Although commerce activities may be intrastate in character, when separately considered, if they have a close and substantial relation to interstate commerce that their control is essential or appropriate to protect that commerce from burdens and obstructions, Congress cannot be denied the power to exercise that control."

Wickard v. Filburn, 317 U.S. 111, 63 S.Ct. 82, 87 L.Ed. 122 (1942)

FACTS: Appellee sought to stop an enforcement of a marketing penalty imposed by the Agricultural Adjustment Act which limited the yield and use of his wheat crop.

ISSUE: May the Federal government fix a quota on the limit that a farmer may harvest along with imposing regulations on its use without violating due process of law contrary to the Fifth Amendment?

DECISION: Yes. As a result of the wheat subsidy program the appellee is able to market his wheat at a price "far above any world price based on the reaction to supply and demand." The Supreme Court could not find a denial of due process under the circumstances, particularly since it was doubtful that appellee's burden under the government's program outweighed his benefits. The court felt that there was not lack of due process for the government to regulate that which is subsidized.

Naturalization Clause/Citizenship (Art I, Sec 8, Clause 4)

Chae Chan Ping v. United States, 130 U.S. 581, 9 S.Ct. 623, 32 L.Ed. 1068 (1889)

FACTS: The Appellant was an alien laborer who resided in San Francisco between 1875 and June 2, 1887 when he left for China. Mr. Ping had in his possession a certificate entitling him reentry into the United States. On his return to San Francisco he presented to the customs officer his certificate but was refused admission on the grounds that under legislation approved by Congress, supplementing the Restriction Acts of 1882 and 1884, the certificate had been annulled and his right to land denied.

ISSUE: Does Congress have the authority and power to prohibit the immigration of foreign citizens into the United States?

DECISION: Yes. The power of exclusion of foreigners being an incident of sovereignty belonging to the government of the United States is part of the sovereign powers delegated by the Constitution. Congress may exercise its rights at any time when in the judgment of the government the interests of the country require it.

Afroyim v. Rusk, 387 U.S. 253, 87 S.Ct. 1660, 18 L.Ed. 2d 757 (1967)

FACTS: Afroyim, of Polish birth, became a naturalized American citizen in 1926. In 1950 he went to Israel and subsequently in 1951 he voted in an Israeli election. As a result of his voting the State Department refused to renew his passport maintaining that he had lost his citizenship by virtue of Section 401(3) of the Nationality Act of 1940.

ISSUE: May Congress, consistent with the Fourteenth Amendment, enact a law stripping an American of his citizenship which he has never voluntarily renounced?

DECISION: No. Congress has no power under the Constitution to divest a person of his United States citizenship absent his voluntarily renouncing his citizenship. Congress cannot sustain an implied attribute of sovereignty as the Fourteenth Amendment provides that "all

persons born or naturalized in the United States . . . are citizens of the United States . . ." The Fourteenth Amendment controls the status of citizenship and prevents the cancellation of citizenship.

Currency Clause (Art I, Sec 8, Clause 5)

Hepburn v. Griswold, 75 U.S. 603, 19 L.Ed. 513 (1870)

FACTS: Prior to February 25, 1862, all contracts for the payment of money, not otherwise stipulated, were in legal effect contracts for the payment of coin. On June 20, 1860, Mrs. Hepburn made a promissory note for the sum of $11,250 to Mr. Henry Griswold payable on February 20, 1862. Five days after the day the note fell due Congress passed an act authorizing the issue of its own paper notes stating, "shall also be lawful money and a legal tender in payment of all debts, public and private, within the United States."

ISSUE: Is the payee or assignee of a promissory note made before February 25, 1862 obligated by law under the Constitution to accept in payment United States notes, rather than coin, equal in nominal amount to the sum due according to its terms?

DECISION: No. The Court observed that contracts prior to the act contained specified sums due in gold and silver coin and that the holders of these contracts were entitled to the protection of the Constitution as are the holders of any other description of property. The Court concluded that an act making mere promises to pay dollars a legal tender in payment of debts previously contracted is not an express power vested in Congress and that such an act is inconsistent with the spirit of the Constitution and that it is prohibited by the Constitution.

Julliard v. Greenman, 110 U.S. 421, 4 S.Ct. 122, 28 L.Ed. 204 (1884)

FACTS: The defendant offered and tendered to the plaintiff $22.50 in gold coin of the United States, $.40 in silver coins and two United States notes: one in the denomination of $5,000 and the other in the denomination of $100 both being legal tender notes. This payment was in obligation of a debt. The plaintiff declined to accept the notes.

ISSUE: Can notes of the United States issued in time of war, under acts of Congress declaring them to be a legal tender in payment of private debts, be redeemed in peace time and be considered a legal tender in payment of such debts?

DECISION: Yes. The clause of the Constitution which declares that the Congress shall have the power to lay and collect taxes, duties, "the Congress shall have imposts and excises, to pay the debts and provide for the common defense and general welfare of the United States", embodies a great power to pay the debts of the United States, or presupposes and assumes that power as inherent in the United States as a sovereign government. It cannot be doubted that under the Constitution the power to provide a circulation of coin is given to Congress. It is settled by the uniform practice of the government, and by repeated decisions, that Congress may constitutionally authorize the emission of bills of credit. The power of making notes of the United States a legal tender in payment of private debts, is included in the power to borrow money and to provide a national currency. This power is not defeated or restricted by the fact that its exercise may affect the value of private contracts.

To Raise and Support Armies (Art I, Sec 8, Clause 12)

Arver v. United States, 245 U.S. 366, 38 S.Ct. 159, 62 L.Ed. 349 (1918)

FACTS: Congress passed a law authorizing the President of the United States to temporarily increase the number of soldiers in the military of the United States by subjecting all male citizens between the ages of 21 and 30 to duty in the national army for the period of the national emergency. In addition, the law provided that the President at his discretion, could select 500,000 men from that group for enlistment in the armed services.

ISSUE: Does Congress have the authority to raise and support armies in conjunction with the power to declare war?

DECISION: Yes. The power of Congress to compel military service as provided by the Selective Draft Law, was intended by the Constitution. This power was strengthened by the Fourteenth Amendment which broadened the national scope of the government by causing citizenship of the United States to be paramount and dominant instead of subordinate and derivative. Military service is not in conflict with the Constitutional guarantees of individual liberty. Rather, it is the duty of the citizens to render military service in the case of need and the right of the government to compel it.

Bill of Attainder (Art I, Sec 9, Clause 3)

Ex Parte Garland, 71 U.S. 333, 18 L.Ed. 366 (1867)

FACTS: An Act of Congress in 1865 provided that after its passage no person shall be admitted as an attorney to the bar of the Supreme Court or any Circuit or District Court of the United States or any Court of Claims or any special power of attorney unless he shall have first taken an oath prescribed in 1862 that he never voluntarily took up arms against the United States from the time he had been a citizen. Nor, had he given aid, countenance, counsel, or encouragement to persons engaged in armed hostilities against the United States. The petitioner followed his state in succession from the Union and served as one of its representatives. In July, 1865 he received a full pardon for all offenses in his participation in the rebellion by the President of the United States. The petitioner would now like to continue his practice as an attorney and counselor.

ISSUE: Was the power of Congress in the Act of 1865 exercised as a means of infliction of punishment against the prohibition of the Constitution?

DECISION: Yes. The Constitution provides the President "shall have the power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment." The power thus conferred is unlimited, with the exception stated. It extends to every offense known to the law and may be exercised any time after its commission. The power of the President is not limited to legislative control. The effect of the pardon is to relieve the petitioner from all penalties and disabilities attached to the offenses of treason committed by his participation in the Rebellion. It is not within the constitutional power of Congress to inflict punishment beyond the reach of executive clemency.

Tax Clause (Art I Sec 9, Clause 4)

Pollack v. Farmer's Loan and Trust Company, 158 U.S. 601, 15 S.Ct. 912, 39 L.Ed. 1108 (1895)

FACTS: The Tariff Act of 1894 imposed taxes on rent and income from real estate and income derived from municipal bonds.

ISSUE: Was such taxation a direct tax within the meaning of the Constitution and, therefore, a right retained by the States and not enforceable by the Federal government?

DECISION: Yes. As far as the law operates on the receipts from municipal bonds it cannot be sustained because it is a tax on the power of the States and on their instrumentalities to borrow money and consequently repugnant to the Constitution. Taxes on real estate are indisputably direct taxes, taxes on rent or income of real estate are equally direct taxes. Taxes on personal property, or on income of personal property, are likewise direct taxes and collectable by the States only.

Republican Form of Government Clause (Art IV, Sec 4)

Texas v. White, 74 U.S. 700, 14 L.Ed. 227 (1869)

FACTS: This was an original suit in this court, in which the State of Texas, claiming certain bonds of the United States as her property asks an injunction to restrain the defendants from receiving payment from the National government and to compel surrender of the bonds to the State. The bonds were issued to the State of Texas by the United States government prior to the outbreak of the Civil War and were sold by the rebellious government during the Civil War and the proceeds used against the United States.

ISSUES:

1. Did Texas, in consequence of seceding, cease to be a State and thus cease to be a member of the Union?

2. In addition, did title pass to the new owners of the bonds?

DECISION:

1. No.

2. No. The Union of the United States never was a purely artificial and arbitrary relation. It began among the Colonies and grew out of a common origin, mutual sympathies, kindred principles, similar interests, and geographical relations. It received sanction from the Articles of Confederation and when these Articles were found to be inadequate the Constitution was ordained to "form a more perfect Union." Under the Constitution all powers not delegated to the United States, nor prohibited to the States, are reserved to the States respectively, or to the people. Therefore, there can be no loss of separate and independent autonomy to the States, through their union under the Constitution, but it may not be unreasonably said that the preservation of the States, and the maintenance of their governments, are much within the design and care of the Constitution as the preservation of the Union and the maintenance of the National govern-

ment. The Constitution, in all its provisions, looks to an indestructible Union, composed of indestructible States. When Texas became one of the United States, she entered into an indissolvable relation. The ordinance of secession was utterly without operation of law. The obligations of the State, as a member of the Union, and of every citizen of the State, as a citizen of the United States, remained perfect and unimpaired, Texas continued to be a State, and a State of the Union.

The bonds alienated during the rebellion may be reclaimed by the restored government, organized in allegiance to the Union, for the benefit of the State. Purchasers of the bonds are affected with notice of defect of title in the seller of the bonds, the rebellious government.

Supremacy Clause (Art VI, Clause 2)

Missouri v. Holland, 252 U.S. 416, 40 S.Ct. 382, 64 L.Ed. 64 (1920)

FACTS: This is an action in equity brought by the State of Missouri to prevent a game warden of the United States from attempting to enforce the Migratory Bird Treaty Act between the United States and Canada. The treaty provided for specified closed seasons and protection of other forms for birds. The basis of the action is that the treaty is an unconstitutional interference with the rights reserved to the States by the Tenth Amendment.

ISSUE: Are the treaty and accompanying United States statute void as an interference with the rights reserved by the States?

DECISION: No. Acts of Congress are the supreme law of the land only when made in pursuance of the Constitution, while treaties are declared to be so when made under the authority of the United States. The treaty in question does not contravene any prohibitory words to be found in the Constitution. Here a national interest of very nearly the first magnitude is involved. It can be protected only by national action in concert with that of another power, but for the treaty and the statute there soon might be no birds for any powers to deal with.

United States v. Belmont, 301 U.S. 324, 57 S.Ct. 758, 81 L.Ed. 1134 (1937)

FACTS: A decree of the Soviet government dissolved a Russian corporation and expropriated all of its assets including deposits in a bank in New York. Subsequently, the President of the United States recognized, and established diplomatic relations with the Soviet government. It was there upon agreed that the Soviet government would take no steps to enforce claims against American nationals, but all such claims, including the bank account, were assigned to the United States with the understanding that the Soviet government would be notified of all amounts so realized by the United States.

ISSUE: Was New York State law violated when the Soviet government expropriated the Russian corporation's bank assets and was public policy of the United States, as declared by the Constitution, in protecting private property without compensation violated?

DECISION: No. The external powers of the United States and its relationships with the bank deposits and the international compact with the Soviet government are to be exercised without regard to state laws or policies. What another country has done in the way of taking over property of nationals and especially of its corporations is not questionable in our courts and there is no Fifth Amendment violation.

CRUEL AND UNUSUAL PUNISHMENT

Furman v. Georgia, 408 U.S. 238, 92 S.Ct. 2726, 33 L.Ed.2d 346 (1972)

FACTS: One night in Georgia, William Henry Furman, a 26 year old Black man, attempted to burglarize a home. When the owner awoke and attempted to stop him, Furman tried to escape. In his escape, Furman said, he tripped and dropped his gun which went off, killing the owner. At the trial, though found to possess a slight mental deficiency, Furman was also found guilty of murder. Under Georgia laws, the jury had the option of recommending death or life imprisonment. They recommended death. Furman appealed to the United States Supreme Court, stating that the death penalty was excessively cruel because: (1) it made rehabilitation (a major purpose of punishment) impossible, (2) imprisonment was an available alternative, (3) the death penalty was not an effective deterent to others, and (4) the death penalty was incompatible with the Equal Protection Clause of the Fourteenth Amendment, since it was imposed almost exclusively on poor people and Blacks. Furman's final argument rested on the belief that society no longer tolerated the death penalty's denial of "human dignity", which was obvious from its infrequent use.

ISSUE: Is the death penalty a violation of the Eighth and Fourteenth Amendments?

DECISION: No and Yes. The Supreme Court did strike down all of the then existing state laws allowing the imposition of the death penalty. In a 5-4 decision, the justices said that the death penalty was wrong not "as such", being cruel and unusual, but rather because the laws gave almost unlimited discretion to judges or juries in deciding to impose the death penalty. The majority also agreed that almost all of those convicted of capital crimes, most of whom were Black or poor or both, were "capriciously selected" for execution. The Supreme Court thus saved Furman, but did not ban capital punishment altogether as a violation of the Eighth Amendment's "cruel and unusual punishment" clause. Instead, it declared that existing capital punishment laws violated the Fourteenth Amendment's due process clause.

Gregg v. Georgia, 428 U.S. 153, 96 S.Ct. 2909, 49 L.Ed. 859 (1976)

FACTS: As a result of the FURMAN case, Georgia and other States passed new capital punishment statutes aimed at answering the Court's objections. Within its new capital punishment law, Georgia provided for the death penalty if a person was convicted for committing any of five specific criminal offenses (including murder) and bound the judge to follow the jury's recommendation. The jury was to consider mitigating or aggravating circumstances. The Georgia Supreme Court, in an automatic review, would consider punishment as well as any possible trial errors and also compare each case with convictions and punishments for similar crimes for the purpose of uniformity. Georgia seemed to cover all of the contingencies left opened by the FURMAN case.

Gregg was sentenced to the death penalty under this new law for his conviction on two counts of armed robbery and two counts of murder. The Georgia Supreme Court overturned the lower Court's decision on the death penalty for the robbery counts but affirmed the sentence for the murder counts. Gregg appealed to the United States Supreme Court, arguing that the new statute was overbroad and vague and only continued practices which the FURMAN case struck down.

ISSUE: Is the death penalty cruel and unusual punishment?

DECISION: No. In a 7-2 decision, the United States Supreme Court upheld the Georgia law. The Court approved the two-stage approach and held that the death penalty did respond to society's need for retribution and was not unconstitutional in itself.

NOTE: *WOODSON v. NORTH CAROLINA*, 428 U.S. 280 (1976)—*mandatory*, death penalty laws are unconstitutional: they are unduly harsh.

ROBERTS v. LOUISIANA, 428 U.S. 325 (1976)—"it is essential (that a) consideration of whatever mitigating circumstances may be relevant should be made before enforcing the death penalty."

Eddings v. Oklahoma, 455 U.S. 104, 102 S.Ct. 869, 71 L.Ed.2d 1 (1982)

FACTS: Sixteen year old Monty Eddings, a runaway from his Missouri home, temporarily lost control of the car he was driving and was signaled to pull over by a police officer. Monty pulled over and stopped as directed, but when the officer approached his car, Monty picked up a shotgun he had been carrying, pointed the gun out his open car window, and shot the officer to death. The trial Court, upon finding Monty to be incapable of rehabilitation within the juvenile system, tried him as an adult and sentenced him to the death penalty. With respect to the mitigating circumstances in the case, the Court considered Monty's young age, but refused to consider evidence that Monty had a troubled and neglectful family history and was probably emotionally disturbed as a result.

ISSUE: In sentencing a juvenile offender who has been tried as an adult and convicted of first degree murder, must a Court consider the circumstances of the juvenile's upbringing as a possible mitigating factor before it may impose the death penalty?

DECISION: Yes. The majority of the Supreme Court held that "Just as the chronological age of a minor is itself a relevant mitigating factor of great weight, so must the background, mental, and emotional development of a youthful defendant be duly considered in sentencing." In support of this ruling, the Court cited the rule of an earlier case, Lockett vs. Ohio, that "the 8th and 14th Amendments require that the sentencer . . . not be precluded from considering, as a mitigating factor, any aspect of the circumstances of the offense that the defendant proffers as a basis for sentence lesser than death."

McCleskey v. Kemp, 481 U.S. 279, 107 S.Ct. 1756, 95 L.Ed.2d 686 (1987)

FACTS: The defendant, a black man, was convicted in a Georgia trial court of armed robbery and murder as a result of the death of a white police officer during the robbery. The jury recommended the death penalty on the murder charge. The defendant claimed that the Georgia capital sentencing process was administered in a racially discriminatory manner in violation of the Eighth and Fourteenth Amendments. In support of his contention the defendant proffered a statistical study that indicated that black defendants who killed white victims have the greatest likelihood of receiving the death penalty.

ISSUE: May a state's death penalty laws be valid if statistics indicate they are implemented in a racially discriminatory way?

DECISION: Yes. The statistical study indicating that the death penalty in Georgia is more frequently imposed on black defendants and defendants killing white victims was insufficient to support an inference that any of the decision makers in the case acted with a discriminatory purpose and thus failed to establish an equal protection violation. The defendant offered no specific evidence that racial consideration played a part in his sentence. Furthermore, absent a showing that the Georgia capital punishment system operates in an arbitrary and capricious manner, the defendant cannot prove an Eighth Amendment violation by demonstrating that other defendants who may be similarly situated did not receive the death penalty.

CIVIL RIGHTS/DISCRIMINATION

Dred Scott v. Sanford, 60 U.S. 393, 15 L.Ed. 691 (1865)

FACTS: Dred Scott was born a slave but claimed that he was entitled to freedom because he was taken by his owner to Rock Island, Illinois, a territory where slavery was prohibited by an act of Congress — prior to being brought back to Missouri — a slave state. In addition, Scott claimed that since he was free when he was brought back to Missouri, he was a citizen of Missouri and had standing to sue as a citizen for his freedom.

ISSUE: Are slaves citizens within the meaning of the Constitution?

DECISION: No. When the Constitution was adopted, slaves were not regarded in any state as members of the community which constituted the state, and were not numbered among its citizens. Travel into a free state by a slave does not free that slave, and since they are not citizens, slaves may not sue in the Courts. "The change in public opinion which has taken place since the adoption of the Constitution cannot change its construction and meaning."

Plessy v. Ferguson, 163 U.S. 537, 16 S.Ct. 1138, 41 L.Ed. 256 (1896)

FACTS: Louisiana statute required railway companies which carried passengers within the State to provide equal but separate accommodations for white and black people, either by separate cars or by partition of cars. Passengers who refused to sit in the section to which they were directed were fined, and the railway company was allowed to refuse to carry such passengers and to be immune from suit.

ISSUE: Does this statute violate the Thirteenth or Fourteenth Amendment?

DECISION: No. As long as the facilities are equal, it is not racial discrimination for persons of different races to be segregated when using those facilities.

Korematsu v. United States, 323 U.S. 214, 65 S.Ct. 193, 89 L.Ed. 194 (1944)

FACTS: Shortly after war with Japan was declared, President Franklin Roosevelt issued an Executive Order which gave military commanders the discretionary authority to designate certain areas of the United States as "military areas". Any or all persons could be excluded and the right to enter, remain in, or leave was subject to whatever instructions the military commander had indicated. On the West Coast, the program established for persons of Japanese ancestry included curfews, detention in relocation areas and exclusion from the West Coast area. Mr. Korematsu was convicted of violating the military order excluding him from certain areas based on his racial ancestry. Korematsu argued that his conviction must be overturned because the military order was an unconstitutional restriction based on racial classification and that this violated the equal protection clause of the Constitution.

ISSUE: Was the military order (restriction) excluding only Japanese Americans from certain areas constitutional?

DECISION: Yes. Although "rigid" scrutiny must be applied when a State or the Federal government restricts or curtails the civil rights of a single racial group, the Supreme Court stated that "pressing public necessity" may sometimes justify the use of such restrictions. The United States was involved in a state of war with Japan, and the military authorities' determination that exclusion of the whole group (all Japanese) was necessary since an immediate segregation of the loyal from the disloyal could not be immediately determined and the threat of sabotage and treason was present. The government's argument that when the United States is threatened by hostile forces,

circumstances of direct emergency and peril are present and that therefore, the order was a military imperative designed to protect the United States and was commensurate with the threatened danger.

NOTE: The Court did not, in this case or any other case, pass on the constitutionality of the detention and confinement programs.

Brown v. Board of Education of Topeka, 347 U.S. 483, 74 S.Ct. 686, 98 L.Ed. 873 (1954)

FACTS: For decades school systems around the United States allowed for separate buildings for Black students and for White students. Mr. and Mrs. Oliver Brown brought suit in a Federal Court against their school board's enforcement of this segregated policy. They claimed that the schools their children attended were inferior to the White public schools. And since such segregated schools were not equal and could not be made "equal", the Browns were deprived of "equal protection of the laws" under the Fourteenth Amendment. The Browns were denied their injunction against the Topeka Board of Education, even though the local Court found "substantial inequality" in buildings, programs for students, qualifications and salaries of teachers.

ISSUE: Does segregation of children in public schools solely on the basis of race deprive the children of a minority group of an equal education? Does this segregation violate the Fourteenth Amendment's equal protection of the law clause?

DECISION: Yes. Segregation generates a feeling of inferiority . . . separate educational facilities are inherently unequal . . . the plaintiffs and others of similar situations have been denied equal protection of the laws guaranteed by the Fourteenth Amendment.

Loving v. Virginia, 388 U.S. 1, 87 S.Ct. 1817, 18 L.Ed.2d 1010 (1967)

FACTS: A white man and a black woman were convicted of violating a Virginia statute which prohibited interracial marriage.

ISSUE: Whether a State statute which prohibits marriage between persons strictly on the basis of race violates the Equal Protection Clause of the Fourteenth Amendment.

DECISION: Yes. The Court stated that the clear and central purpose of the Fourteenth Amendment was to eliminate all official State sources of insidious racial discrimination by the States. Since the statute clearly distinguishes on the basis of race, it must be subjected to the most rigid scrutiny. The State must prove that the means (statute) is necessary to the accomplishment of some permissible State objective. The State's allegation that the statute applies equally to both races (herein white and black) is countered by the Court's statement that the Virginia statute prohibits any interracial marriages involving whites. Therefore, the statute was designed to maintain white supremacy, which is clearly an illegitimate end, and violates the central meaning of the Equal Protection Clause.

Reed v. Reed, 404 U.S. 71, 92 S.Ct. 251, 30 L.Ed.2d 225 (191)

FACTS: Idaho law required that, when persons of equal entitlement (in this case two surviving parents) seek to administer an estate, males must be preferred to females. Upon the death of an adopted minor son, the Idaho Probate Court appointed Cecil Reed, the father, as administrator of his son's estate after the petition of Sally Reed, the deceased mother had been first received.

ISSUE: Does a mandatory statutory preference for one gender, where both applicants are equally qualified, violate the equal protection clause of the Fourteenth Amendment?

DECISION: Yes. A mandatory preference to members of either sex over members of the other merely to accomplish the elimination of a hearing on the merits of the applicants, is an arbitrary legislative choice forbidden by the equal protection clause.

San Antonio Independent School District v. Rodrigues, 411 U.S. 1, 93 S.Ct. 1278, 36 L. Ed. 2d 616 (1973)

FACTS: The financing of public education in Texas is a combination of state and local financial participation. Approximately half of all the revenues for education are derived from a state funded program to provide basic minimum educational offerings. Each local district provides money through property taxes within its local boundaries. This action was brought on behalf of school children said to be members of poor families who live in school districts having a low property tax base. This action was brought under the equal protection clause of the Fourteenth Amendment to the Constitution.

ISSUE: Does the Texas system of financing public education operate to the disadvantage of some suspect class or impinge upon a fundamental right explicity or implicitly protected by the Constitution?

DECISION: No. Though education is one of the most important services performed by the State, it is not within the limited category of rights recognized by the Supreme Court as guaranteed by the Constitution. It is not the province of the Court to create substantive constitutional rights in the name of guaranteeing equal protection of the laws. The Court has no indication that the present levels of educational expenditures in Texas provide an education that is substandard. There is no basis for a finding that the system fails to provide each child with an opportunity to acquire the basic minimal skills necessary for the enjoyment of the rights of speech and of full participation in the political process. The financial disparity is not such as to be invidiously discriminatory. The State of Texas has taken action to ameliorate the differences in the levels of expenditures and thus the Court believes that the state's plan satisfies the constitutional requirement under the Equal Protection Clause.

Craig v. Boren, 429 U.S. 190, 97 S.Ct. 451, 50 L.Ed.2d 397 (1976)

FACTS: An Oklahoma statute prohibited the sale of "non-intoxicating" 3.2% beer to males under the age of 21 and to females under the age of 18.

ISSUE: Does the gender based differential constitute a denial of Equal Protection to males 18-20 years of age?

DECISION: Yes. The Court stated that to withstand scrutiny under the Equal Protection component of the 5th Amendment's Due Process Clause, "classifications by gender must serve important government objectives and must be substantially related to the achievement of the objectives". The State's argument that traffic safety was the objective was supported by statistical evidence including arrest statistics for 1973 demonstrating that 18-20 year-old male arrests for "driving under the influence" and "drunkenness" substantially exceeded female arrests for the same age group. The Court rejected the evidence as not adequately justifying the objective, since none of the evidence measured the use and dangerousness of 3.2% beer as opposed to alcohol generally, especially since 3.2% beer was considered to be "non-intoxicating". In addition, the statute prohibited the "sale" not the consumption of the 3.2% beer. The Court held that the

relationship between traffic safety and gender was too tenuous to satisfy the requirement that the gender-based difference be substantially related to the achievement of the statutory objective, and the statute was unconstitutional.

Kolender v. Lawson, 461 U.S. 352, 103 S.Ct. 1855 (1983)

FACTS: California statute required that any persons who loitered or wandered the street had to provide "credible and reliable" identification and to account for their presence when requested to do so by a police officer. Edward Lawson was arrested 15 times in a 2 year period for violation of this statute.

ISSUE: Is the standard used to describe the necessary identification too vague to give notice of what identification is required and thus unconstitutional under the due process clause of the Fourteenth Amendment?

DECISION: Yes. By failing to clarify what is meant by "credible and reliable" identification, the police have almost complete discretion to decide whether the suspect should be permitted to wander the streets. Such a standard is too vague to allow potential wanderers to equip themselves with proper identification and thus avoid arrest.

St. Francis College v. Al-Khazraji, 481 U.S. 604, 107 S.Ct. 2022, 95 L.Ed.2d 582 (1987)

FACTS: A United States citizen born in Iraq brought suit against his former employer alleging that they discriminated against him on the basis of his Arabian race in violation of federal law.

ISSUE: Does a federal law aimed primarily at banning discrimination against blacks also protect members of ethnic groups considered to be Caucasian?

DECISION: Yes. Based on the history of the federal anti-discrimination law we conclude that Congress intended to protect from discrimination identifiable classes of persons who are subjected to intentional discrimination solely because of their ancestry or ethnic characteristics. Such discrimination is racial discrimination that Congress intended federal law to forbid, whether or not it would be classified as racial in terms of present scientific theory.

Shaare Tefila Congregation v. Cobb, 471 U.S. 615, 107 S.Ct. 2019, L.Ed.2d 594 (1987)

FACTS: A Jewish synagogue was spray painted with anti-Semitic slogans. The synagogue contended that their federal property rights were violated by the defendant and brought an action for damages.

ISSUE AND DECISION: Same as St. Francis College v. Al-Khazraji.

New York State Club Association, Inc. v. City of New York, __U.S.__, 108 S.Ct. 2225 101 L.Ed. 2d 1 (1988)

FACTS: New York State passed a Human Rights law prohibiting discrimination in private clubs that are determined to be "public" in nature by the fact that they have more than 400 members and serve meals and beverages to non-members for the furtherance of trade or business.

ISSUE: Have individual First and Fourteenth Amendment rights been violated by the State Human Rights Law?

DECISION: No. Although private or intimate association may occur in a private club setting, as is also true in many restaurants and other places of public accommodation, that fact does not afford an organization any constitutional immunity to practice discrimination when the government has barred it from doing so. The state law does not affect "in any significant way" the ability of individuals to form associations that will advocate public or private viewpoints. The law prevents associations from using race, sex or other specified characteristics as a ban to membership.

FREEDOM OF ASSEMBLY/ ASSOCIATION

Cox v. New Hampshire, 312 U.S. 596, 61 S.Ct. 762, 85 L.Ed. 1049 (1941)

FACTS: Five Jehovah's Witnesses were convicted in a municipal Court in Manchester, New Hampshire, of violating a state statute prohibiting a "parade or procession upon a public street without a special license." The defendants claimed that the statute not only violated their First Amendment rights of religion, speech and assembly, but also vested unreasonable and unlimited authority and discriminatory powers in the municipal licensing authority.

ISSUE: Is the parade permit requirement an unconstitutional infringement on individual rights?

DECISION: No. The state may require a special permit for marching groups as a traditional exercise of local government control, and may charge a license fee reasonably adjusted to the administrative and police expenses for the event. In addition, the law as constitutionally applied to these particular defendants, "who marched in groups of fifteen to twenty persons in close single, files along sidewalks in the business district of a populous city."

NAACP v. State of Alabama ex rel. Patterson, 357 U.S. 449, 78 S.Ct. 1163, 2 L.Ed.2d 1488 (1958)

FACTS: The State of Alabama enacted a statute requiring out of state corporations to file its corporate charter with the Alabama Secretary of State as well as designating a place of business and an agent to receive services of process. The State of Alabama brought an equity suit to require the NAACP to produce records and papers of the organization as well as the names and addresses of its Alabama members and agents.

ISSUE: Can state action that affects an individual's position and function in an association violate the Due Process Clause of the Fourteenth Amendment?

DECISION: Yes. If an association's rank-and-file members are constitutionally entitled to withhold their connection with the association despite the state's production order, it is manifest that this right is properly assertable by the association. The association is the appropriate party to assert these rights because the association and its members are in every practical sense identical. The production order trespasses upon the fundamental freedoms protected by the Due Process Clause of the Fourteenth Amendment.

Communist Party of the United States v. Subversive Activities Control Board, 367 U.S. 1, 81 S.Ct. 1357, 6 L.Ed. 625 (1961)

FACTS: The Subversive Activities Control Board found that the Communist Party of the United States was a "Communist-action organization" within the meaning of the Subversive Activities Control Act of 1950 and ordered the Party to register under Section Seven of the Act.

ISSUE: Is the requirement of the Control Board a violation of the Communist Party's First Amendment right to free speech and association?

DECISION: No. Since the only action taken against the Party was to require it to register under Section Seven, the only constitutional issue now properly before the Court pertains to the constitutionality of the registration requirement. The requirement under Section Seven does not constitute a bill of attainder within the meaning of the Constitution. The requirement under Section Seven to provide names and addresses of its members does not constitute a restraint of freedom of expression and association in violation of the First Amendment. In a number of situations in which secrecy of the concealment of associations has been regarded as a threat to public safety and to the effective free functioning of our national institutions Congress has met the threat by

requiring disclosure or registration. Where the mask of annonymity which an organization's members wear serves the double purpose of protecting them from popular prejudice and of enabling them to cover over a foreign-directed conspiracy, infiltrate into other groups, and enlist the support of persons who would not, if the truth were revealed. It would be a distortion of the First Amendment to hold that it prohibits Congress from removing the mask.

Coates v. Cincinnati, 402 U.S. 611, 91 S.Ct. 1686, 29 L.Ed. 214 (1971)

FACTS: A Cincinnati, Ohio, ordinance made it a criminal offense for three or more persons to assemble on a sidewalk "and there conduct themselves in a manner annoying to persons passing by". A student demonstration and four labor pickets were convicted of violating the ordinance.

ISSUE: Was this ordinance unconstitutional?

DECISION: Yes, on two grounds. First the ordinance was unconstitutional on its face because it violated the due process standard for vagueness. Second, the ordinance violated constitutional guarantees of free assembly and association.

Democratic Party v. Lafollette, 450 U.S. 107, 101 S.Ct. 1010, 67 L.Ed. 2d 82 (1981)

FACTS: Rule 2A of the Democratic Selection Rules for its 1980 National Convention stated: "Participation in the delegate selection process in primaries or caucuses shall be restricted to Democratic voters only who have publicly declared their party preference and have that preference publicly recorded." The election laws of Wisconsin allow non-Democrats to vote in the Democratic primary without regard to party affiliation and without requiring a public declaration of party preference. Delegates to the National Convention are chosen separately, after the primary, at caucuses of persons who have stated their affiliation with the Party. But these delegates, under Wisconsin law, are bound to vote at the National Convention in accord with the results of the open primary election. The State's mandate that the results of the primary shall determine the allocation of votes cast by the State's delegates at the National Convention violate National Party rules and is being challenged here.

ISSUE: Could Wisconsin insist that its delegates to the national Political Party Convention be seated, even though those delegates are chosen through a process that includes a binding state preference primary election in which voters do not declare their party affiliation?

DECISION: No. The National Political Parties enjoy a constitutionally protected right of political association under the First Amendment, and this freedom to gather in association for the purpose of advancing shared beliefs is protected by the Fourteenth Amendment from infringement by any State. It necessarily presupposes the freedom to identify the people who constitute the association and to limit the association to those people only.

Board of Directors of Rotary International v. Rotary Club of Duarte, 481 U.S. 537, 107 S.Ct. 1941, 92 L.Ed.2d 47 (1987)

FACTS: The Rotary Club of Duarte, California admitted three women to its membership contrary to the bylaws of the International Rotary organization. Rotary International revoked the charter of the Duarte club and terminated its membership. The Duarte Club and two of its members filed suit under state law prohibiting discrimination in all business establishments.

ISSUE: Does a California law enforcing Rotary Clubs in the state to admit women, unlawfully violate Rotary Club members' right to private association?

DECISION: No. The evidence fails to demonstrate that admitting women will effect, in any significant way, the existing members ability to carry out their various purposes. The state law does not require the organization to abandon or alter any of their basic goals of humanitarian service, high ethical standards in all vocations, goodwill and peace, nor does the law require the organization to abandon their classification system or admit members who do not reflect a cross section of the community. Even if the state law does work some slight infringement on Rotary members right of expressive association, that infringement is justified because it serves the State's compelling interest in eliminating discrimination.

FREEDOM OF EXPRESSION
SPEECH/PRESS

Schenck v. United States, 249 U.S. 47, 39 S.Ct. 274, 63 L.Ed. 470 (1919)

FACTS: Schenck and Baer mailed printed circulars to men who had been accepted for military service in World War I, encouraging those men to obstruct the draft. The defendants were convicted of a conspiracy to obstruct the recruiting and enlistment services, a violation of the Espionage Act of 1917.

ISSUE: Was the printing and distribution of these circulars protected by First Amendment free speech guarantees?

DECISION: No. In some circumstances, words which ordinarily would be protected by the First Amendment, may be prohibited when they may be used to create a clear and present danger such as Congress has a right to prevent.

Gitlow v. New York, 268 U.S. 652, 45 S.Ct. 625, 69 L.Ed. 1138 (1925)

FACTS: Benjamin Gitlow was convicted in New York of the crime of anarchy. The anarchy statute prohibited statements advocating the overthrow of organized government by force, violence, and unlawful means.

ISSUE: Is the statute against anarchy an unconstitutional limitation on free speech or press in violation of the First Amendment?

DECISION: No. Such expressions are dangerous to the general welfare and it is within the police power of the state to prohibit them. The fact that the legislature has determined that these specific expressions are dangerous puts them in a different category from words to which "clear and present danger" (*Schenck*) test should be applied.

Near v. Minnesota, 283 U.S. 697, 51 S.Ct. 625, 75 L.Ed. 1357 (1931)

FACTS: Minnesota statute authorized nuisance suits by the State against persons publishing "a malicious, scandalous and defamatory newspaper, magazine, or other periodical." Malice was to be inferred from the act of publication, and the defendant was allowed to prove that the publications were true and published with good motives. Defendant Near, the publisher of the Saturday Press in Olson County, Minnesota was stopped from publishing the newspaper after printing charges against public officials for official misconduct.

ISSUE: Is freedom of the press protected against action by the state government?

DECISION: Yes. The Minnesota statute is unconstitutional as applied to publications charging neglect of duty and corruption on the part of law enforcement officers of the state. The due process clause of the Fourteenth Amendment protects the liberty of the press from state invasion.

Burstyn v. Wilson, 343 U.S. 495, 72 S.Ct. 777, 96 L.Ed. 1098 (1952)

FACTS: New York Education Law prohibited the commercial showing of any motion picture without a license and denied a license to any film which the director of the motion picture division of the State Education Department decided was "sacrilegious". Joseph Burstyn, Inc. was a corporation which distributed motion pictures. Burstyn had exclusive right of United States distribution of an Italian film called "The Miracle", which the motion picture division had concluded was sacrilegious.

ISSUE: Is film censorship on the ground of being sacrilegious a violation of the First Amendment?

DECISION: Yes. Such censorship is a prior restraint on freedom of speech and press, which is unconstitutional under the First Amendment, made applicable to the states by the Fourteenth Amendment. A state has no legitimate interest in protecting any or all religions from views distasteful to them which is sufficient to justify prior restraints upon the expression of those views.

American Communications Association v. Douds, 339 U.S. 382, 70 S.Ct. 674, 94 L.Ed. 925 (1950)

FACTS: The Taft-Hartley Act restricts the activities of labor organizations whose officers have not filed "non-communist" affidavits with the National Labor Relations Board. The Communications Union challenged the constitutionality of these provisions.

ISSUE: Does the Taft-Hartley Act unduly infringe upon freedoms protected by the First Amendment?

DECISION: No. The effects of the statute upon the free exercise of the right of speech and assembly must be weighed against Congress' determination that political strikes cause substantial harm to interstate commerce and that communists pose continuing threats to the public interest when they are in positions of public leadership. The requirement that a person who believes in the overthrow of the United States government by force or illegal means may be forced to relinquish a position of union leadership does not unduly infringe upon First Amendment freedoms.

Yates v. United States, 354 U.S. 298, 77 S.Ct. 1064, 1 L.Ed. 1356 (1957)

FACTS: Defendants were charged with conspiring to advocate the overthrow of the United States Government and to organize, as part of the Communist Party of the United States, persons whom they advocated. All defendants were convicted of Smith Act violations. A question arose regarding the definition of "advocacy and organize" for purposes of the Smith Act.

ISSUE: Does the First Amendment free speech doctrine protect advocacy of the forcible overthrow of the government?

DECISION: Yes, as long as the advocacy remains an abstract doctrine. However, advocacy directed at promoting unlawful action is illegal. In addition, "organizing" is held to be the creation of a new organization, not the recruiting of new members into an existing organization.

Tinker v. Des Moines Independent School District, 393 U.S. 503, 89 S.Ct. 733, 21 L.Ed. 731 (1969)

FACTS: In 1965 the level of American involvement in Vietnam was increasing. A group of Quakers who were active in the anti-war movement planned to publicize their views by wearing black armbands during the Christmas season. Their purpose was to mourn those who died in the war and to urge a truce in the fighting. The school principals in Des Moines found out about the plan and adopted a policy that any student wearing an armband would be suspended until he or she returned to school without the armband. Seven students were sent home for wearing the armbands. Three of the students did not return to school until the planned period for wearing the armbands had expired.

The students sued the school officials to restrain them from taking disciplinary action. The students claimed that the policy of prohibiting armbands in school deprived them of their constitutional rights.

ISSUE: Is wearing the armbands in school protected as freedom of expression by the First Amendment?

DECISION: Yes. The First Amendment protects symbolic as well as pure free speech. Although school officials need to be able to control student conduct, there was no evidence that the wearing of armbands interfered with the school's work or with the rights of other students to be secure or to be let alone. The Court specifically extended this freedom beyond the classroom and to the cafeteria, the playing field, and the campus.

New York Times Company v. United States, 403 U.S. 713, 91 S.Ct. 2140, 29 L.Ed.2d 822 (1971)

FACTS: The United States government sought to block the publication by the New York Times of a classified study of the American decision-making process regarding the Vietnam War.

ISSUE: Is the government's asserted need to maintain national security by preventing publication of classified documents strong enough to override free press concerns?

DECISION: No. In this case the government did not meet its burden of showing justification for imposing a prior restraint upon expression.

Miller v. California, 413 U.S. 15, 93 S.Ct. 2607, 37 L.Ed.2d 419 reh den 414 U.S. 881, 94 S.Ct. 26, 38 L.Ed.2d 128 (1973)

FACTS: Marvin Miller, who mailed unsolicited advertising brochures containing pictures and drawings of explicitly sexual materials, was convicted of violating a California statute making it a misdemeanor to distribute knowingly obscene materials.

ISSUE: Is such material protected by the First Amendment?

DECISION: No. Obscene material is not protected by the First Amendment. In determining what is obscene, the proper First Amendment standards include the application of contemporary community standards regarding appeal to the average person's prurient interest, patently offensive depictions of sexual conduct specifically defined by state law, presence of any serious literary, artistic, political or scientific values. There is no requirement that the material be shown to be "utterly without redeeming social value."

Nebraska Press Association v. Stuart, 424 U.S. 539, 96, S.Ct. 2791, 49 L.Ed.2d 683 (1976)

FACTS: A trial Court issued an order restraining the news media from publishing or broadcasting, prior to the impaneling of a jury, accounts of confessions or admissions made by a man accused of murdering six persons.

ISSUE: Did the restraining order violate the First Amendment's free press guarantee?

DECISION: Yes. There was no showing that alternatives to prior restraint would have been unsuccessful in lessening the effects of pretrial publicity on the prospective jurors. In addition, an order prohibiting report or comment on public judicial proceedings was clearly invalid.

Richmond Newspapers, Inc. v. Virginia, 448 U.S. 555, 100 S.Ct. 2814, 65 L.Ed.2d 973 (1980)

FACTS: Upon motion of the defendant in a murder trial, the Court ordered that the Courtroom be kept clear of everyone except witnesses when they testified. A Virginia statute allowed discretionary exclusion of any persons "whose presence would impair the conduct of a fair trial". Two newspaper reporters sought to vacate the order on free press grounds, but the Court allowed the trial to proceed with press and public excluded.

ISSUE: Did the Court order violate the right granted by the First and Fourteenth Amendments of access of the public and press to criminal trials?

DECISION: Yes. However, the Supreme Court could not agree on the rationale. Three justices believed that the fact that there was no inquiry into alternative solutions was significant. Several judges felt that the Sixth Amendment guarantee of a public trial as well as First Amendment of the press issues, were implicated.

New York v. Ferber, 458 U.S. 747, 102 S.Ct. 3348, 73 L.Ed.2d 1113 (1982)

FACTS: New York statute prohibited persons from distributing material showing the sexual performance of a child under the age of sixteen and thus promoting such performance. Paul Ira Ferber, a bookstore proprietor, was convicted of violating this statute by selling films of young boys engaged in sexual activity. The New York Court of Appeals reversed the conviction, holding that the statute violated the First Amendment by being underinclusive and overbroad, thus prohibiting the promotion of materials traditionally protected by the First Amendment. New York appealed to the United States Supreme Court.

ISSUE: Is child pornography protected by traditional First Amendment guarantees?

DECISION: No, at least as such material is defined by the New York statute. States have greater leeway regulating such depictions of children because of the effect on the mental health of the children involved. Adult standards of obscenity (*Miller*) are not satisfactory for this issue. Advertising and selling child pornography are illegal throughout the country, and there is little value in permitting such performances. A special category outside of the First Amendment's protection is permissible, since that material is so heavily involved with the welfare of the children used to produce it. The statute is neither underinclusive nor overbroad.

Board of Education, Island Trees Union Free School District v. Pico, 457 U.S. 853, 102 S.Ct. 2799, 73 L.Ed.2d 435 (1982).

FACTS: The local board of education for the Island Trees Union Free School District ordered that certain books be removed from high school and junior high school libraries on the grounds that the books were "anti-American, anti-Christian, anti-Semitic, and just plain filthy." Among the books so characterized by the Board were *Soul on Ice*, by Eldridge Cleaver; *Slaughterhouse Five*, by Kurt Vonnegut, Jr.; *Go Ask Alice*, by Anonymous; *The Best Stories by Negro Writers*, Ed. by Langston Hughes; *Laughing Boy*, by Oliver LaFarge; and the *Naked Ape*, by Desmond Morris. Several students from the school involved filed suit against the Board and the case ultimately reached the Supreme Court.

ISSUE: Does the First Amendment impose limitations upon the exercise by a local school board of its discretion to remove library books from high school and junior high school libraries?

DECISION: Yes. According to Chief Justice Brennan, who delivered the majority opinion of the Court, "local school boards may not remove books from school library shelves simply because they dislike the ideas contained in those books and seek by their removal to prescribe what shall be orthodox in politics, nationalism, religion or other matters or opinion." The Court recognized that a school board should have a significant degree of discretion in determining the contents of school libraries in light of the board's responsibility to students to instill in them traditional community values. On the other hand, the Court also recognized that First Amendment rights are available to students in school, and that the "special characteristics of the school library make that environment especially appropriate for the recognition" of such rights.

Bethel School District v. Fraser, 478 U.S. 675, 106 S.Ct. 3159, 92 L.Ed.2d 549 (1986)

FACTS: Respondent high school student delivered a speech nominating a fellow student for an elective office at a school-wide assembly which was held as part of a program in self-government. During the speech the respondent referred to his candidate in terms of elaborate, graphic and explicit sexual metaphors. Some of the students hooted and yelled during the speech, and mimicked the sexual activities alluded to in the speech, and others appeared to be embarrassed. Prior to delivering the speech, the respondent spoke with teachers who advised him that the speech was inappropriate and should not be given. Subsequently, the respondent was suspended from school for three days and his name was removed from the list of candidates for graduation speaker because he violated the school's "disruptive conduct rule."

ISSUE: Whether the First Amendment prevents a school district from disciplining a high school student for giving a lewd speech at a school assembly?

DECISION: No. The First Amendment does not prevent school officials from determining that to permit a vulgar and lewd speech, such as respondent's, would undermine the school's basic educational mission. A high school assembly or classroom is not the place for a sexually explicit monologue directed towards an unsuspecting audience of teenage students. Accordingly, it was perfectly appropriate for the school to disassociate itself and to make the point to pupils that vulgar speech and lewd conduct is wholly inconsistent with the fundamental values of a public school education.

Hazelwood v. Kuhlmeier, __U.S.__, 108 S.Ct. 562, L.Ed.2d 592 (1988)

FACTS: High school students brought this action alleging that their First Amendment rights were violated by the deletion from an issue of their school newspaper of two pages that included an article describing a student's experiences with pregnancy and another article discussing the impact of divorce. The newspaper was written as part of a journalism class and part of the school's curriculum. As was the school's practice, page proofs were submitted to the school's principal who objected to the pregnancy story because the pregnant students might be identified from the text and that the article's reference to sexual activity and birth control were inappropriate for younger students. Similarly, he objected to the divorce article because it identified, by name, a student who complained of her father's conduct after his divorce. The principal believed that the student's parents should have had the opportunity to respond to the article or to consent to its publication.

ISSUE: Can school officials impose restraints on students' speech in activities that are an integral part of the school's educational function, including the publication of a school sponsored newspaper by a journalism class?

DECISION: Yes. First Amendment rights of a student are not automatically coextensive with the rights of adults in other settings, and must be applied in light of the special characteristics of the school environment. A school need not tolerate student speech that is inconsistent with its educational mission, even though the government could not censor similar speech outside the school. The school officials in this case did not deviate from their policy that the newspaper's production was to be part of the educational curriculum and a regular classroom activity under the journalism teacher's control as to almost every aspect of production. The school officials did not evince any intent to open the paper's pages to indiscriminate use by its student reporters and editors. The school officials were entitled to regulate the paper's contents in any reasonable manner.

FREEDOM OF RELIGION
ESTABLISHMENT CLAUSE

Minersville School District v. Gobitis, 310 U.S. 586, 60 S.Ct. 1010, 84 L.Ed. 1375 (1940)

FACTS: Lillian and Walter Gobitis, 12 and 10 years old, attended public school in Minersville, Pennsylvania. The Board of Education there required a daily flag salute of all students. The Gobitis children, who were Jehovah's Witnesses, refused to join with others because they regarded the flag, as a "graven image" and saluting it meant "bowing down to idols". They claimed that this was forbidden by Chapter 20 of the Book of Exodus. The school board refused to allow the children to attend school unless they saluted. The Gobitis' won in the lower Courts, so the school board appealed to the United States Supreme Court.

ISSUE: Does requiring school children to take part in flag salute ceremonies infringe the liberty guaranteed by the First Amendment?

DECISION: No. "The flag is the symbol of our national unity and national unity is the basis of our national security . . . the end is legitimate", said Justice Frankfurter. Saluting the flag for the purpose of strengthening loyalty to the nation is an important governmental objective and a decision of this kind is best left to local decision-makers and not the Courts.

West Virginia Board of Education v. Barnette, 319 U.S. 624, 63 S.Ct. 1178, 87 L.Ed. 1628 (1943)

FACTS: The West Virginia legislature made it compulsory for children in the public schools to salute the flag and pledge allegience. Those children who refused to salute were expelled for refusal to comply. Their absence after explusion was unlawful, subjecting them and their parents and guardians to punishment. A group of Jehovah's Witnesses who were citizens of West Virginia sought an injunction to restrain enforcement of the law.

ISSUE: Does requiring school children to take part in flag salute ceremonies infringe the liberty guaranteed by the First Amendment?

DECISION: Yes. This case specifically overturned *Minersville School District v. Gobitis*. Students in public schools cannot be forced to declare a belief. The Supreme Court declared that the action of the local authorities in compelling the flag salute and pledge transcends constitutional limitations on their power and invades the sphere of intellect and spirit which it is the purpose of the First Amendment to our Constitution to reserve from all official control. They went on to state that the fact that Boards of Education are "educating the young for citizenship is reason for scrupulous protection of Constitutional freedoms of the individual, if we are not to strangle the free mind at its source and teach youth to discount important principles of our government as mere platitudes".

McCollum v. Board of Education, 333 U.S. 203, 68 S.Ct. 461, 92 L.Ed. 648 (1948)

FACTS: Religious teachers, employed by the board of education of a school district in Champaign County, Illinois, gave religious instruction to public school students in public school buildings once each week. These teachers were employed subject to the approval of a private religious group representing the Catholic, Protestant, and Jewish faiths. Pupils attended religion classes at their parents' request: other pupils were not released from their class work.

ISSUE: Does religious instruction provided in a public school violate the establishment clause of the First Amendment?

DECISION: Yes. Using the tax-supported school system to enable sectarian groups to give religious instruction to public school students in public school buildings violates the First Amendment, applicable to the states by the Fourteenth Amendment.

Engel v. Vitale, 370 U.S. 421, 82 S.Ct. 1261, 8 L.Ed.2d 601 (1962)

FACTS: In 1962, the New York State Board of Regents recommended to all school districts that a non-denominational prayer (written by the Regents) be said on a voluntary basis in the schools each day. The Prayer, which became known as the "Regents Prayer" read: "Almighty God we acknowledge our dependence upon Thee, and we beg Thy blessings upon us, our parents, our teachers, and our country."

The New Hyde Park Board of Education directed that the prayer be said aloud by each class in the presence of a teacher at the beginning of each school day. The parents of ten students challenged this action as a violation of the principle of "Separation of Church and State."

ISSUE: Did the actions of the New York State Board of Regents and the Board of Education of New Hyde Park constitute a violation of the Establishment Clause of the United States Constitution and combine church and state in this respect?

DECISION: Yes. The Supreme Court ruled that, since the prayer's nature can always be and only be a religious one, it stands as an example of official approval and establishment of a religious act. This was a direct violation of the First Amendment's "establishment clause" which prohibits any government (or agency thereof) to prescribe by law the establishment or sponsorship of religion or religious activities. "The fact that the prayer may be denominationally neutral and its observance on the part of the students voluntary, cannot change the Court's findings. It is a historic fact that governmentally established religions (and sponsored practices) and religious persecutions go hand in hand."

School District of Abington Township v. Schempp, 374 U.S. 203, 83 S.Ct. 1560, 10 L.Ed.2d 844 (1963)

FACTS: A Pennsylvania statute and a Baltimore City School Board rule adopted pursuant to that statute required daily reading of Bible verses and the unison recitation of the Christian Lord's Prayer at the opening of each school day. These religious exercises were prescribed as part of the students' curricular activities and were held in the school building under the supervision of teachers employed by the schools.

ISSUE: Did the statute or rule violate the establishment clause of the First Amendment?

DECISION: Yes. The establishment clause requires not only that the government refrain from preferring one religion over another but also that the government cannot pass laws which aid one religion or all religions. The Bible is an instrument of certain religions, so its use aids those religions. Even though individual students may absent themselves from the required religious exercises, the conduct of such exercises by a governmental unit violates the position of religious neutrality of the State.

Wisconsin v. Yoder, 406 U.S. 205, 92 S.Ct. 1526, 32 L.Ed.2d 15 (1972)

FACTS: The State of Wisconsin enacted compulsory school attendance beyond the eighth grade. The respondents claim that the statute encroached on their rights and the rights of their children to the free exercise of their religious beliefs (the Amish faith) under the First Amendment.

ISSUE: Does the power of the State extend to compel youngsters to attend secondary schools, even if participation in secular instruction violates the religious activities of children or their parents?

DECISION: No. The Court stated that in order for the State to compel school attendance beyond the eighth grade against a claim that such attendance interferes with the practice of a legitimate religious belief, the State must either not deny the free exercise of religious belief by its requirement, or prove that there is a State interest so compelling that it will override the interest claiming protection under the Free Exercise Clause.

The Court observed that the unique traditional life led by people in the rural Amish communities and the religious foundations of these communities would be undermined if the children were required to attend conventional high school. The Amish pattern of life, rooted in religious tradition, and the legitimate interest in sustaining the integrity of its religious existence weighed heavily on the balancing of interests in this case.

Stating that the "traditional way of life of the Amish is not merely a matter of personal preference, but one of deep religious conviction, shared by an organized group, and intimately related to daily living," the Court held that the impact of the compulsory attendance law on the respondents practice of their religion was not only severe, but inescapable, since the law compelled them, under threat of criminal sanction, to perform acts undeniably at odds with fundamental tenets of their religion. The State's interest in demanding school attendance of Amish children to age 16 was found not to be compelling enough to allow a constitutional infringement upon their free exercise of religion under the First and Fourteenth Amendments.

Lynch v. Donnelly, 465 U.S. 668, 104 S.Ct. 1355, 79 L.Ed.2d 604 (1984)

FACTS: The City of Pawtucket, Rhode Island, sponsors an annual Christmas display which includes a Christian nativity scene. The inclusion of the nativity scene was challenged as an unconstitutional violation of the separation of church and state.

ISSUE: Does the inclusion of a nativity scene in a city Christmas display violate the establishment clause of the First Amendment, as applied to the States by the Fourteenth Amendment?

DECISION: No. Even though the nativity scene has religious significance, its inclusion as a passive symbol of Christmas, which is a national holiday, does not violate the Establishment clause. Any benefits to any religion from the inclusion of the nativity scene are indirect and incidental.

Wallace v. Jaffree, 459 U.S. 1314, 105 S.Ct. 2479, 74 L.Ed.2d 924 (1985)

FACTS: Parents of three public school children filed a complaint against various school officials and Alabama state officials challenging the constitutionality of an Alabama state statute allowing school prayer and meditation.

ISSUE: Does a state statute providing a period of silence in public schools for meditation or voluntary prayer violate the Establishment Clause?

DECISION: Yes. The court concluded that the Alabama legislature intended to change existing law and that it was motivated by the sole purpose of expressing the State's endorsement of prayer activities for one minute at the beginning of each school day. Such an endorsement is not consistent with the established principle that the government must pursue a course of complete neutrality toward religion. For whenever the State itself speaks on a religious subject it must not endorse or disapprove of religion. In this case, the State intended to convey a message of State approval of prayer activities in the public schools and violates the First Amendment.

RIGHTS OF THE ACCUSED

Betts v. Brady, 316 U.S. 455, 62 S.Ct. 1252, 86 L.Ed. 1595 (1942)

FACTS: Smith Betts, charged with robbery, could not afford a lawyer. Tried in a Maryland Court, he asked the judge to appoint counsel for him because he could not afford to hire a lawyer himself. The judge in this case refused on the grounds that lawyers could be assigned only in rape or murder cases, or in cases in which the defendant did not have the intelligence to understand the charge against him. Betts conducted his own defense and was convicted. Betts appealed to the United States Supreme Court, claiming violation of the due process clause of the Fourteenth Amendment.

ISSUE: Must the State provide assistance of counsel for an indigent defendent in a criminal case?

DECISION: According to a 6-3 decision, the majority concluded that representation by counsel is not a part of the fundamental right to a fair trial. However, the three dissenting justices held that the Fourteenth Amendment did require the State to appoint counsel where the accused could not afford one.

Gideon v. Wainwright, 372 U.S. 335, 83 S.Ct. 792, 9 L.Ed. 799 (1963)

FACTS: Clarence Earl Gideon was arrested in 1962 and charged with breaking and entering a poolroom with intent to commit petty larceny. At his trial, he requested that the judge appoint an attorney to represent him, since he did not have the funds to hire one himself. The judge refused, and Gideon was tried, found guilty, and sentenced to five years in prison. (Gideon had a prior criminal record). Gideon acting as his own counsel, filed a pauper's petition with the United States Supreme Court, asking for a review of his case. The Court granted his request and appointed Abe Fortas (a private attorney who would later be appointed to the Supreme Court) to represent Gideon.

ISSUE: Must the state provide assistance of counsel for an indigent defendant in a criminal case?

DECISION: Yes. The Supreme Court was unanimous in this decision. Justice Black, who dissented in *Betts*, wrote the opinion: " . . . any person hailed into our Court, who is too poor to hire a lawyer cannot be assured a fair trial unless counsel is provided for him." Thus, this case reversed *Betts* and began the broadening of rights for the accused defendant over the past twenty-five years.

Escobedo v. Illinois, 378 U.S. 478, 84 S.Ct. 1758, 12 L.Ed.2d 977 (1964)

FACTS: Danny Escobedo, a twenty-two year old Mexican-American, was arrested in connection with the murder of his brother-in-law. Taken to the station for questioning, Danny made no statement and his release was obtained by his lawyer, Warren Wolfson.

Later, a witness named Benedict DiGerlando told police that Danny had fired the fatal shots. Police again arrested Danny, told him that DiGerlando had identified him as the murderer, and that the case was pretty well settled. They then suggested that he confess to the crime. Danny replied, "I'm sorry, but I would like to have advice from my lawyer."

Danny's attorney, Wolfson, arrived at the station and asked to see Danny. When police refused to allow him to do so, Wolfson went to the Chief. The Chief replied that Wolfson could not speak with Danny until the police had finished questioning him. Danny once caught a glimpse of his attorney through an open doorway but was unable to speak with him. Police officers continued

their interrogation and were joined by Assistant State's Attorney, Theodore J. Cooper, who asked a series of carefully worded questions. Evidence obtained by Cooper's questioning was a major factor in the determination of Escobedo's guilt.

Wolfson appealed Danny's conviction to the Supreme Court of the United States, claiming that Danny's right to counsel as provided in the Sixth and Fourteenth Amendments had been denied by the police. Danny also claimed that he was forced to stand during the questioning, that he was handcuffed, extremely nervous and anxious, and had been unable to sleep for a week.

ISSUE: At what point does an accused person being questioned by the police have the right to counsel?

DECISION: The Supreme Court ruled that the police had violated Escobedo's right to counsel. The Court said Escobedo should have been allowed to see his lawyer as soon as he was arrested. The attorney could have then advised Danny of his right as guaranteed by the Constitution. The Court also said that the evidence taken during Cooper's questioning was illegal because it was taken while Danny was denied help from his lawyer. The Court ordered a new trial for Escobedo. In the new trial, the illegally obtained "confession" could not be used.

Miranda v. Arizona, 384 U.S. 436, 86 S.Ct. 1602, 16 L.Ed.2d 694 (1966)

FACTS: Ernesto Miranda was arrested and was interrogated in a special interrogation room. Subsequently, he signed a confession which was used to convict him of kidnapping and rape. The confession contained a typed paragraph stating that he confessed voluntarily with full knowledge of his legal rights and with the understanding that any statement might be used against him. However, Miranda was never told of his right to counsel, and his privilege against self-incrimination was not otherwise protected.

ISSUE: Do suspects need to be warned of their rights to protect themselves against self-incrimination before statements they make to the authorities can be used against them?

DECISION: Yes. Before such a statement may be admitted, the suspect must be warned prior to questioning of the right to remain silent, that any statement may be used as evidence, and that he or she has a right to an attorney, either retained or appointed.

Goss v. Lopez, 419 U.S. 565, 955 S.Ct. 729, 42 L.Ed.2d 725 (1975)

FACTS: Ohio law allowed the principal of any public school to suspend a student for misconduct for up to ten days or to expel a student, as long as the principal notified the student's parents within twenty-four hours of the suspension or expulsion and stated to them the reason for the disciplinary action. In a class action suit, public high school students in Columbus, Ohio charged that their suspension for up to ten days without a hearing of any kind was unconstitutional.

ISSUE: Does school suspension without notice or a hearing violate procedural due process guarantees of the Fourteenth Amendment?

DECISION: Yes. Students facing temporary suspension from a public school have property and liberty interests that qualify for protection under the Due Process Clause of the Fourteenth Amendment. Due Process requires that, with regard to a suspension of ten days or less, the student be given oral or written notice of charges, an explanation of the evidence if the charges are denied, and an opportunity to present his or her version of the events. In case of danger or disruption, the hearing may follow removal from school; otherwise the hearing should precede removal.

Jones v. United States, 463 U.S. 354, 103 S.Ct. 3043, 77 L.Ed.2d 694 (1983)

FACTS: In the District of Columbia, a criminal defendant may be acquitted by reason of insanity. If thus acquitted, he or she is then committed to a mental hospital and within fifty days is entitled to a judicial hearing to determine if he or she is no longer mentally ill. Such a hearing is allowed every six months to see if the person acquitted is entitled to release. Defendant Jones, who was found not guilty of petit larceny by reason of insanity was found mentally ill at the fifty day hearing and was hospitalized for more than a year. He then demanded release or a new trial on the issue of his current mental state, since he had been hospitalized longer than the amount of time he would have spent in prison if he had been originally convicted of the crime with which he had been charged.

ISSUE: Can a person be confined in a mental institution after an insanity acquittal for a greater length of time than that person would have served in prison, if convicted?

DECISION: Yes. The Constitution permits the government, on the basis of the insanity judgment, to confine the person to a mental institution until such time as he or she regained sanity or is no longer a danger to self or society. The purposes of incarceration and commitment are different, and there is no necessary correlation between the length of a criminal sentence and the length of time necessary for recovering.

Schall v. Martin, 467 U.S. 253, 104 S.Ct. 2403, 81 L.Ed.2d 207 (1984)

FACTS: In New York, pretrial detention was allowed for an accused juvenile delinquent based on a finding that there was serious risk that the juvenile might commit, prior to the Family Court trial proceeding, an act which would be a crime if committed by an adult. Gregory Martin, a juvenile who had been thus detained, brought a habeas corpus class action seeking that the pretrial detention statute was unconstitutional.

ISSUE: Does pretrial detention of accused juvenile delinquents violate the due process clause of the Fourteenth Amendment?

DECISION: No. Prevention detention serves the legitimate state objective of protecting both the juvenile and society of pretrial crime. The procedural safeguards of the statute, which require notice, a hearing, and a statement of facts given to the juvenile prior to any detention, provide sufficient protection against erroneous and unnecessary deprivations of liberty. The standard for detention — serious risk of criminal activity — is not too vague; future criminal conduct can be predicted.

New York v. Quarles, 467 U.S. 649, 104 S.Ct. 2626, 81 L.Ed.2d 550 (1984)

FACTS: Police officers, having been told that a man carrying a gun had entered a supermarket, ordered the man fitting the description of the gunman to halt, frisked and then handcuffed him, and asked where the gun was. The man, Benjamin Quarles, told police the gun was behind some cartons. After the officers retrieved the gun, they read Quarles his *Miranda* rights. Subsequently, the trial Court held that the gun and Quarles' statement regarding its location had to be excluded, since the *Miranda* rights were not read prior to Quarles statement regarding the gun.

ISSUE: Should the gun and statement regarding the gun's location be excluded due to the officers' failure to read Quarles his *Miranda* rights prior to attempting to locate the gun?

DECISION: No. This case presents a situation in which there is a "public safety exception" to the requirement that *Miranda* warnings be given before a suspect's answers may be admitted into evidence. As long as the gun was concealed somewhere in the supermarket, it posed several dangers to the public; the suspect or an accomplice could recover it, or a customer or employee might later discover it. An answer from the suspect was needed to ensure that further danger to the public did not result from the concealment of the gun in a public area.

Colorado v. Spring, 479 U.S. 564, 107 S.Ct. 851, 93 L.Ed.2d 954 (1987)

FACTS: Defendant and a companion killed an individual during a hunting trip. After receiving information from an informant, federal agents arrested the defendant during an undercover operation for firearms violation. The agent on the scene advised the defendant of his Miranda rights for the alleged firearms violations. While in jail on the first charge he was questioned as to the homicide. The defendant was again given Miranda warnings and signed a form indicating that he understood his rights and waived them. The defendant then confessed to the homicide.

ISSUE: Must a suspect be informed of all the accusations about which police will question him/her for a Miranda waiver to be valid?

DECISION: No. A suspect may waive the Fifth Amendment privilege "provided the waiver is made voluntarily, knowingly and intelligently." In this case, law enforcement officials twice informed the defendant of his Fifth Amendment privilege precisely in the manner specified in Miranda. He understood his rights and signed a written form waiving his rights. There was no element of duress, coercion or physical violence used to induce the confession.

SEPARATION OF POWERS

Chisholm v. Georgia, 2 U.S. 419, 1 L.Ed. 440 (1793)

FACTS: A citizen of South Carolina sued the State of Georgia in Federal Court. Georgia chose to ignore the suit, on the theory that a State could not be sued. Chisholm sought a default judgment against Georgia in the United States Supreme Court.

ISSUE: Can a State be sued by the citizen of another State in Supreme Court?

DECISION: Yes. In addition, if the State refuses to appear, a default judgment may be entered against that State.

Marbury v. Madison, 5 U.S. 137, 2 L.Ed. 60 (1803)

FACTS: William Marbury and three other persons brought suit in the Supreme Court against James Madison, then the Secretary of State, to force Madison to deliver to them their commissions as justices of the peace of the District of Columbia. All plaintiffs were appointed by President John Adams, with the advice and consent of the Senate, but Madison refused to deliver the commissions.

ISSUE: Was the Supreme Court the appropriate place to bring such action?

DECISION: No. The Supreme Court was not granted the power to issue writs of *mandamus* by the Constitution. However, such a writ could be appropriately provided by a lower Federal Court with original jurisdiction. More importantly, acts of Congress which were repugnant to the Constitution were held not to be law, and the Supreme Court was designated the body which would say what the Constitution meant.

McCulloch v. Maryland, 17 U.S. 316, 4 L.Ed. 579 (1819)

FACTS: Congress incorporated a Bank of the United States. The bank had a branch office located in Maryland. Maryland sought to tax the branch bank.

ISSUE: Does Congress have the power to create a bank, and can a State tax such a bank?

DECISION: Congress has the power to incorporate a bank, since it can do anything to further legitimate ends under the Constitution. The bank had a right to establish branch offices, and such branches may not be taxed by a State, since a State has no right to tax any constitutional means by which the Federal government achieves constitutional ends. The supremacy of the national government is affirmed.

Gibbons v. Ogden, 22 U.S. 1, 6 L.Ed. 23 (1824)

FACTS: The New York Legislature granted exclusive navigation rights for all steamboats on its waterways to Robert Livingston and Robert Fulton. This exclusive license thus prohibited other vessels licensed by the United States from operating on New York waterways.

ISSUE: Can a State close navigation of its waters to licensees of the United States government?

DECISION: No. Congress is authorized by the Constitution to regulate commerce, and the waterways of the States are essential to commerce. Thus, the exclusive license unduly burdens interstate commerce and must fall.

Barron v. Baltimore, 32 U.S. 243, 8 L.Ed. 672 (1833)

FACTS: The General Assembly of Maryland by statute appropriated some private property to the state. Barron brought suit against the State, charging that such seizure of private property for public use without just compensation violated the Fifth Amendment to the Constitution.

ISSUE: Is the taking of private property for public use by a State without just compensation unconstitutional?

DECISION: No. The Constitutional prohibition is intended solely as a limitation on the Federal government and is not applicable to State legislation.

DeLima v. Bidwell, 182 U.S. 1, 21 S.Ct. 743, 45 L.Ed. 1041 (1901)

FACTS: The DeLima importing company sued the collector of customs to recover duties assessed upon property imported from Puerto Rico after 1899. DeLima charged that the Board of General Appraisers had no jurisdiction, since Puerto Rico was no longer a foreign country to the United States.

ISSUE: Does territory acquired by the United States by cession from a foreign power remain a foreign country for purposes of the tariff laws?

DECISION: No. When the peace treaty between Spain and the United States was ratified on April 11, 1899, the island of Puerto Rico ceased to be a "foreign country". (The same ruling was made in 1901 with regard to Hawaii.)

Village of Euclid v. Amber Realty Company, 272 U.S. 363, 47 S.Ct. 114, 71 L.Ed. 303 (1926)

FACTS: The realty company was owner of a tract of land in the village of Euclid. In 1922 an ordinance was adopted by the Village Council establishing a comprehensive zoning plan for regulating and restricting location of trades, industries and the types of dwellings in the village. The ordinance was questioned on the grounds that it is in violation of the Fourteenth Amendment in that it deprives the realty company of liberty and property without due process of law.

ISSUE: Is the ordinance invalid in that it violates the constitutional protection "to the right of property by attempting to regulate under the guise of police power, which is unreasonable and confiscatory?"

DECISION: No. The Court found that the ordinance in its general scope and dominant features valid. The Court stated that it would not scrutinize the ordinance sentence by sentence to ascertain by a piecemeal process whether there may be, here and there, provisions of a minor character, or relating to matters of administration, or not shown to contribute to the injury complained of, which, if attacked separately, might not withstand the test of constitutionality.

United States v. Nixon, 418 U.S. 638, 94 S.Ct. 3090, 41 L.Ed.2d 1039 (1974)

FACTS: Following indictment alleging violation of Federal statutes by certain White House staff members and political supporters of the President, the Special Prosecutor filed a motion to subpoena President Nixon's tapes and documents relating to precisely identified conversations and meetings between the President and others. The President refused to comply, claiming that

the dispute between him and the Special Prosecutor was non-justiciable as an "intra-executive conflict" and that the judiciary lacked authority to review the President's assertion of executive privilege.

ISSUE: Must the President relinquish the tapes to the Special Prosecutor?

DECISION: Yes. Although the Courts will afford the utmost deference to Presidential acts in the performance of an executive function, when a claim of Presidential privilege as to materials subpoenaed for use in a criminal trial are based merely on generalized interest in confidentiality, the President's privlege must yield to the demonstrated specific need for evidence in a pending criminal trial and the fundamental demands of due process of law in the fair administration of criminal justice.

National League of Cities v. Usery, 426 U.S. 833, 96 S.Ct. 2465, 49 L.Ed.2d 245 (1976)

FACTS: The Fair Labor Standards Act was amended in 1974 so as to extend the Act's minimum wage and maximum hour provisions to almost all public employees of the States.

ISSUE: Does the Commerce Clause empower Congress to regulate state action in areas of traditional governmental functions?

DECISION: No. The 1974 Amendment operates directly to displace the States' abilities to structure employer-employee relationships in the areas of traditional governmental functions. They are not within the authority granted Congress by the Commerce Clause. Congress may not wield its power in a fashion that would impair the State's "ability to function effectively in a federal system." Congress may not exercise its power to regulate commerce so as to force directly upon the States choices as to how essential decisions regarding the conduct of integral governmental functions are to be made.

Garcia v. San Antonio Metropolitan Transit Authority, 469 U.S. 528, 105 S.Ct. 1005, 83 L.Ed.2d 1016 (1985)

FACTS: The San Antonio Metropolitan Transit Authority is a public mass transit authority that is the major provider of transportation in the San Antonio, Texas area. It receives substantial federal financial assistance under the Mass Transportation Act of 1964. In 1979 the Wage and Hour Administration of the Department of Labor issued an opinion that the Transit Authority was not immune from the minimum-wage and overtime requirements of the Fair Labor Standards Act.

ISSUE: Does the Commerce Clause empower Congress to regulate state action in areas of traditional governmental functions?

DECISION: Yes. Overturns **Usery**. In affording San Antonio Transit Authority employees the protection of the wage and hour provisions of the Fair Labor Standards Act, Congress contravened no affirmative limits on its power under the Commerce Clause. There is nothing in the overtime and minimum wage requirements, as applied to the Transit Authority, that is destructive of State sovereignty or violative of any constitutional provision. The States' continued role in the federal system is primarily guaranteed not by any externally imposed limits on the commerce powers, but by the structure of the federal government itself.

Morrison v. Olson, __ U.S. __, 108 S.Ct. 2597, 101 L.Ed. 2d 569 (1988)

FACTS: Title VI of the Ethics in Government Act of 1978 allows for the appointment of an "independent counsel" to investigate and, if appropriate, prosecute certain high ranking government officials for violations of federal criminal law. In 1986, Morrison was appointed as independent counsel to investigate allegations against Olson. Olson, and others, were accused of conspiring to withhold documents from Congress while employed in the Justice Department.

ISSUE: Does the independent counsel provisions of the 1978 Ethics in Government Act violate the Constitution's appointments clause and the doctrine of separation of powers?

DECISION: No. The independent counsel is an "inferior officer" and vesting his or her appointment in the judicial branch does not violate the appointments clause. The separation of powers is not violated because the act gives the executive branch sufficient control over the independent counsel to ensure that the President is able to perform constitutionally assigned duties.

SEARCH & SEIZURE/ PRIVACY

Olmstead v. United States, 277 U.S. 438, 48 S.Ct. 564, 72 L.Ed. 944 (1928)

FACTS: Evidence of a conspiracy to violate the Prohibition Act was obtained by government officers who secretly tapped telephone wires and overheard conversations concerning the conspiracy. The evidence was later used to convict the defendants.

ISSUE: Does the use of wiretap evidence compel the accused to be a witness against himself or herself in violation of the Fifth Amendment?

DECISION: No. There is no legislative policy to protect the secrecy of telephone messages and, under common law, the admissibility of evidence is not affected by its having been obtained illegally. In addition, no one whose conversation was overheard was compelled to testify against himself or herself.

Mapp v. Ohio, 367 U.S. 643, 81 S.Ct. 1684, 6 L.Ed. 1081 (1961)

FACTS: Police officers requested admission to a home owned by Dolly Mapp. They said they wanted to search for a fugitive who was reportedly hiding there and that they also received information that a large amount of policy slips (illegal gambling) paraphernalia was hidden there. Mrs. Mapp refused to let the police in without a warrant. The police then forced their way into her house and searched it. After a very thorough search they found no fugitive and no policy slips (gambling records) but did find some obscene materials. The obscene material, was admitted in Court, and Dolly Mapp was convicted of possession of obscene materials. Dolly Mapp appealed, saying that: "The search was illegal, the *evidence* was obtained illegally, and the *evidence* wasn't even hers to begin with.

ISSUE: Is evidence obtained in violation of the Fourth Amendment admissible in Court?

DECISION: No. The Fourth Amendment's prohibition of unreasonable searches and seizures is enforceable against the states through the Due Process Clause of the Fourteenth Amendment. The concept of the "home as your castle" is a sacred principle of American law. Consent by the occupant which is not freely and intelligently given, or which is gained through intimidation by the police and leads to illegally obtained evidence, is inadmissible in a Court of law. Mapp's conviction was overturned.

Katz v. United States, 389 U.S. 347, 88 S.Ct. 507, 19 L.Ed.2d 576 (1976)

FACTS: Charles Katz was convicted of transmitting wagering information by telephone, in violation of Federal law. At Katz's trial, the government introduced evidence of his part of the conversation, which was overheard by F.B.I. agents who had attached an electronic device to the outside of the telephone booth from which Katz made his call.

ISSUE: Is such eavesdropping a violation of Fourth Amendment guarantees against unreasonable searches and seizures?

DECISION: Yes, since there was no prior authorization for the surveillance. Reasonableness should be decided through prior authorization by a magistrate when probable cause has been shown.

City of Akron v. Akron Center for Reproductive Health, 479 U.S. 564, 103 S.Ct. 2481, 93 L.Ed.2d 954 (1983)

FACTS: A city ordinance of Akron, Ohio, required that all abortions after the first trimester be performed in hospitals, that unmarried minors under the age of fifteen must have parent consent or judicial order prior to abortion, that each patient contemplating abortion be informed of fetal development, possible complications from abortions and abortion alternatives, that any woman seeking an abortion must wait twenty-four hours after signing the consent form, and that fetal remains be disposed of in "a humane and sanitary" manner.

ISSUE: Are these provisions unconstitutional under the Fourteenth Amendment right of privacy and due process guarantee?

DECISION: Yes. The hospitalization requirement is not necessary due to safe clinic procedures. The parental/judicial consent provision enables a blanket presumption of immaturity, whereas case-by-case evaluation of maturity is required. By listing all the information to be provided, the state has gone beyond the limits of informed consent and intruded upon the physician's discretion. No legitimate state interest is shown for a twenty-four hour waiting period, and the disposal requirement is too vague to give adequate notice and is thus unconstitutional as a due process violation.

Massachusetts v. Sheppard, 468 U.S. 981, 104 S.Ct. 3424, 82 L.Ed.2d 737 (1984)

FACTS: On the basis of evidence gathered in the investigation of a homicide, a police detective drafted an affidavit to support an application for an arrest warrant and a search warrant. The detective made changes on a standard search warrant form and presented it to a judge who made additional changes on the warrant and returned it to the detective informing him that it was sufficient to carry out the requested search. In fact, the warrant was defective under Fourth Amendment requirements in that it did not specifically describe the evidence to be seized.

ISSUE: Can evidence obtained with a defective warrant be admissible if the police had a good faith belief that the warrant was valid?

DECISION: Yes. A police officer can carry out a search from a warrant that he possesses which he requested from a judge who advised him, by word and action, that the warrant is authorized. Furthermore, the determinations of a judge acting within his jurisdiction, even if erroneous, are valid and binding until they are set aside under some recognized procedure.

Nix v. Williams, 467 U.S. 431, 104 S.Ct. 2501, 81 L.Ed.2d 377 (1984)

FACTS: Following the disappearance of a ten year old girl in Des Moines, Iowa, the defendant was arrested and arraigned in Davenport, Iowa. The police informed the defendant's lawyer that they would drive the defendant back to Des Moines without questioning him. However, during the trip, one of the police officers began a conversation with the defendant that ultimately resulted in his making incriminating statements and directing the police to the girl's body.

ISSUE: Can evidence that was obtained illegally be used if it would have ultimately or inevitably been discovered through routine police investigations?

DECISION: Yes. If the State can prove that the evidence would have been obtained inevitably and, therefore, would have been admitted regardless of any overreaching by the police, then there is no rational basis to keep that evidence from the jury in order to ensure the fairness of the trial

proceedings. Indeed, suppression of the evidence would operate to undermine the adversary system by putting the State in a worse position that it would have occupied without any police misconduct.

New Jersey v. T.L.O., 469 U.S. 325, 105 S.Ct. 733, 83 L.Ed.2d 720 (1985)

FACTS: A teacher at a New Jersey high school upon discovering a freshman student and her friend smoking cigarettes in a school bathroom in violation of a school rule, took them to the principal's office, where they met with the assistant vice-principal. The student denied that she had been smoking. The assistant vice-principal demanded to see her purse and upon opening the purse he found a pack of cigarettes and cigarette rolling papers that are commonly associated with the use of marijuana, a pipe, plastic bags, substantial amounts of money, a list of students who owed her money and two letters that implicated her in marijuana dealings.

ISSUE: Does the Fourth Amendment's prohibition on unreasonable searches apply to public school officials?

DECISION: Yes. The Fourth Amendment's prohibition on unreasonable searches and seizures applies to searches conducted by public school officials. In carrying out searches and other functions pursuant to disciplinary policies mandated by state statutes, school officials act as representatives of the State. School officials need not obtain a warrant before searching a student who is under their authority. Furthermore, school officials are not held subject to the requirement that searches be based on probable cause to believe that the subject of t e search has violated or is violating the law. Rather, the legality of a search of a student should depend simply on the reasonableness, under all the circumstances, of the search.

Maryland v. Garrison, 480 U.S. 71, 107 S.Ct. 1013, 94 L.Ed.2d 72 (1987)

FACTS: Baltimore police officers obtained and executed a warrant to search the person of one individual and his premises known as 2036 Park Avenue, third floor apartment "for controlled substances." The police believed that there was only one apartment on the described premises. In fact, the third floor was divided into two apartments, one occupied by the individual cited in the search warrant and one by the eventual defendant in the case. Before the police became aware that they were in the wrong apartment, they discovered the contraband that provided the basis for the defendant's conviction for violating Maryland's Controlled Substance Act.

ISSUE: When police make a good faith mistake with a search warrant and end-up searching the wrong apartment, may the evidence they seized be used?

DECISION: Yes. The objective facts available to the police at the time of the issuance of the warrant suggested no distinction between the two apartments on the third floor. They honestly believed that the third floor contained only one apartment. For that reason, the police properly responded to the command contained in a valid warrant even if the warrant is interpreted as authorizing a search of only one apartment. The conduct of the police was consistent with a reasonable effort to ascertain and identify the place intended to be searched within the meaning of the Fourth Amendment.

VOTING RIGHTS

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Baker v. Carr, 369 U.S. 186, 82 S.Ct. 691, 7 L.Ed.2d 663 (1962)

FACTS: Potential voters for members of the Tennessee Legislature brought a class action suit charging that some members of the Legislature represented more populous districts than did others, thus diluting the proportional representation of persons living in the more populous districts.

ISSUE: Is the apportionment of State legislative districts a question within the jurisdiction of the Federal Courts?

DECISION: Yes. The Federal judiciary's relationship to the State is not a "political question", as would be the relationship of the coordinate branches of the Federal government. Rather a complaint alleging that a State statute creates apportionment of legislative districts which deprives voters of the equal protection of the laws in violation of the Fourteenth Amendment is within the subject matter jurisdiction of the Federal Courts.

Reynolds v. Sims, 377 U.S. 533, 84 S.Ct. 1362, 12 L.Ed.2d 506 (1964)

FACTS: Registered voters of two urban Alabama counties challenged the validity of State legislative districts which varied as much as 600,000 persons in one house and almost 100,000 persons in the other. Such apportionment gave greater weight to rural districts at the expense of urban districts and diluted the representation of urban dwellers.

ISSUE: Do inequalities in population of election district or voting units render legislative apportionment unconstitutional?

DECISION: Yes. The equal protection clause of the Fourteenth Amendment requires seats in both houses of a bicameral state legislature to be apportioned on a population basis, on the "one person, one vote" principle. Some deviations from absolutely equal districts are allowed as long as they are based on legitimate considerations which are part of a rational State policy.

City of Pleasant Grove v. United States, 479 U.S. 462, 107 S.Ct. 794, 93 L.Ed.2d. 866 (1987)

FACTS: The City of Pleasant Grove has a long history of racial discrimination and until recently had an all-white population. Because of the Voting Rights Act of 1965, the city must obtain preclearance before instituting any change in practices affecting voting. The city sought to annex two parcels of land: one populated by white individuals, the second parcel was populated by white and black families. The city intended to annex only portions of the second parcel which was a white area.

ISSUE: Can the Voting Rights Act of 1965 be used to bar an all-white community from annexing land if the community refuses to annex nearby areas inhabited by blacks?

DECISION: Yes. The fact that the city's proposed annexations do not have any present impact on black voters, in that there are no black voters within the city, does not prevent the court from finding that the annexations have discriminatory purposes forbidden by the Voting Rights Act.

RIGHT TO BEAR ARMS

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United States v. Miller, 307 U.S. 174, 59 S.Ct. 816, 83 L.Ed. 206 (1939)

FACTS: Mr. Miller is accused that he did unlawfully, knowingly, willfully and feloniously transport in interstate commerce from the State of Oklahoma to the State of Arkansas a certain firearm, a double barrel twelve gauge shotgun having a barrel less than eighteen inches in length. This firearm did not have stamp affixed as required by the National Firearms Act.

ISSUE: Is the defendant protected by the Second Amendment to the Constitution in possessing such a firearm?

DECISION: No. The Court said that they could not say that the Second Amendment guarantees the right to keep and bear such an instrument. It further stated that this weapon was not part of the ordinary military equipment or that its use could contribute to the common defense of the country.

INVOLUNTARY SERVITUDE

Pollock v. Williams, 322 U.S. 4, 64 S.Ct. 792, 88 L.Ed. 1095 (1944)

FACTS: Mr. Pollock was arrested on a warrant stating that he did, with intent to injure and defraud under and by reason of a contract and promise to perform labor and service, procure and obtain money, in the sum of $5.00 as advances from one J. V. O'Albora. The State of Florida had a statute making it a misdemeanor to induce advances with intent to defraud by a promise to perform labor and further making failure to perform labor for which money has been obtained prima facie evidence of intent to defraud.

ISSUE: Is the Florida statute in conflict with the Thirteenth Amendment to the Constitution which outlaws involuntary service?

DECISION: Yes. The undoubted aim of the Thirteenth Amendment as implemented by the Antipeonage Act was not merely to end slavery but to maintain a system of completely free and voluntary labor throughout the United States. Whatever of social value there may be, and of course, it is great, in enforcing contracts and collection of debts, Congress has put it beyond debate that no indebtedness warrants a suspension of the right to be free from compulsory service. This congressional policy means that no state can make the quitting of work any component of a crime, or make criminal sanctions available for holding unwilling persons to labor.

Flood v. Kuhn, 407 U.S. 258, 92 S.Ct. 2099, 32 L.Ed. 2d 728 (1972)

FACTS: Curt Flood, a professional baseball player was traded from the Cincinnati Reds to the Philadelphia Phillies without his previous knowledge or consent. He brought this anti-trust action after being refused the right to make his own contract with another major league team. This denial was made under the existing "reserve system" rule of major league baseball. The complaint charged violations of the federal anti-trust laws, civil rights statutes, violations of state statutes and the imposition of a form of peonage and involuntary servitude contrary to the Thirteenth Amendment.

ISSUE: Have the federal anti-trust laws been violated and a form of involuntary servitude imposed upon baseball players?

DECISION: No. The reserve system and its exemption from federal anti-trust laws enjoyed by professional baseball is an aberration that has been with us for half a century, one heretofore deemed fully entitled to the benefit of stare decisis. The Court has emphasized that since 1922 baseball, with full and continuing congressional awareness, has been allowed to develop and to expand unhindered by federal legislative action. Football, boxing, basketball, and hockey do not enjoy such an exemption. The Court has voiced a preference that if any change is to be made, it comes by legislative action, that, by its nature, is only prospective in operation.

United States v. Kozminski U.S., 108 S.Ct. 2751, 101 L.Ed. 2d 788 (1988)

FACTS: Two mentally retarded men were found laboring on defendant's farm in poor health. In squalid conditions, and in relative isolation from the rest of society, defendants were charged with violating federal law by conspiring to prevent the men from exercising their Thirteenth Amendment right to be free of involuntary servitude.

ISSUE: What is the meaning of "involuntary servitude" under federal statute to enforce the Thirteenth Amendment?

DECISION: We hold that for the purposes of criminal prosecution under federal laws for enforcement of the Thirteenth Amendment that the term "involuntary servitude" necessarily means a condition of servitude in which the victim is forced to work for the defendant by the use or threat of physical restraint or physical injury, or by the use or threat of coercion through law or the legal process. This definition encompasses those cases in which the defendant holds the victim in servitude by placing the victim in fear of such physical restraint or injury or legal coercion.

STRATEGIES AND ACTIVITIES

I. **Title:** Supreme Court Hearing

Purpose: To assist students in understanding the procedures used in oral arguments before the U.S. Supreme Court and in preparing a legal brief.

Procedures: 1. Select any of the cases cited in this guide and assign class members roles as either:
Lawyers for the Petitioner
Lawyers for the Respondent
Justices of the Supreme Court (9)
Legal Research Assistants

2. Allow students approximately two weeks to prepare their briefs (see this guide for instructions).
3. Instruct class on procedures used by the U.S. Supreme Court.
4. Enact the arguments before the justices.
5. After the arguments are completed, have justices argue aloud their reasoning in deciding for the petitioner or respondent's case.
6. A vote on the issue is conducted.
7. Debrief the class on this activity. Be sure to question the class on their agreement with the decision posed by the justices.

II. **Title:** Case Study Analysis — Supreme Court Decisio s

Purpose: To provide students with an opportunity to analyze a case study.

Procedures: 1. Present students with one of the cases from this text.
2. Have students review the facts either individually, in groups, or as a whole class. Have students pick out the pertinent or significant facts.
3. Determine what is the Primary Issue presented before the Court.
4. Assign students to the task of analyzing and/or developing the arguments that would be posed by both counsels before the Court.
5. Reach a decision by comparing those suggested by various members of the class after careful consideration of the facts, issues, and arguments.
6. Compare the decision reached by group or class consensus with the actual decision of the Supreme Court.

Evaluation: After using this type of activity in class, have students follow the same procedures with another case as a homework assignment.

III. **Title:** Adversary Debate
Purpose: To allow students an opportunity to combine their ability to develop a legal brief with the skill of oral advocacy.

Procedures: Divide class into teams for debate. Two or three students should be sufficient. Distribute the same case to each team.
2. After establishing the main issue, assign each team the position of petitioner/respondent (affirmative or negative). An excellent case to consider might be *U.S. v. Leon* 104 S.Ct. 3405 (1984) *Massachusetts v. Sheppard* 104 S.Ct. 3424 (1984) or *New York v. Quarles* 104 S.Ct. 2626 (1984). The first two consider the "good faith" exception to the exclusionary rule and the third revolves around the exception to the

Miranda Warnings.
3. Students should research all pertinent information on the main issue and study the rules for regulation competitive debate.
4. After teams compete against one another, they should switch roles and take the other side for the second round.

Evaluation: Evaluate the effectiveness of individuals and teams on the adherence to procedures and development of the information to support their stance.

IV. **Title:** Hypothetical Analysis (A Case Study Alternative)

Purpose: This activity is designed to evaluate a student's understanding of basic concepts concerning civil liberties and the Bill of Rights.

Procedures: 1. Upon completion of a unit of study on a basic civil liberty, such as freedom of the press or assembly, the teacher will provide students with several hypothetical examples concerning this concept in which the situations or fact patterns are slightly different.
2. Students will decide if this hypothetical situation is:

A. Protected under our Constitution
B. Protected as the result of judicial precedent
C. Not protected under the Constitution

Students should compare the elements in each case that dictate in which of the three categories it falls.

Example
Freedom of the Press Hypotheticals

_____ George Smith, a reporter for the *Herald Tribune* refuses to divulge his sources concerning a recent article on a crime syndicate to a Federal Grand Jury.
_____ *Sporting Galore* magazine prints an article which depicts a college football coach as being unfit to work with youth. The reporter investigated this without utilizing all the sources at his disposal, and without complying with the highest professional standards.

Evaluation: This activity could be the basis of a review or examination technique.

V. **Title:** Constitutional Issue Search

Purpose: To familiarize students with the correlation of legal issues to our Constitution and Amendments.

Procedures: 1. Provide students with a copy of the Constitution and Amendments.
2. Distribute the basic facts from several actual or hypothetical cases.
3. Assign students the task of identifying the primary issue in each case and the section(s) from the Constitution or Amendments that correspond to the constitutional issue for standing.
4. (optional) The cases could encompass more than one area/issue for consideration. For Example:

A. Due Process according to the 14th Amendment and the 6th Amendment Right to a Jury Trial.
B. Freedom of Religion under the 1st Amendment and one's Right to Privacy according to the 4th Amendment.

5. Most cases found in this publication could be used for this activity.

Evaluation: Teacher could give students a combination of issues and have students develop a situation fact scenario which would provide a legal controversy for judicial consideration.

VI. **Title:** Visitor From Outer Space: The Bill of Rights Reconsidered

Purpose: This activity serves as a method to encourage students to consider their basic civil liberties and create an appreciation for their interrelated importance to our democratic ideals. An introduction motivator.

Procedures: 1. Distribute a copy of "Visitor From Outer Space"
2. Have students complete the handout and then tabulate their responses in one of the following ways:

A) What are the rights you designated as most important? Why?
B) What are the rights you were willing to give up? Why?

3. Conduct an in-depth discussion of the reasons for their ranking. Highlight the possible effects of authority on the willingness of persons to give up their Constitutional Rights.
4. You may wish to draw an analogy to situations in history in which this type of repression existed.

Evaluation: Although this is more of a motivational type of activity, it can be used as an end of the unit comparison to see if attitudes have changed once an understanding of the civil liberties has been garnered.

VII. **Title:** Gaming: Find the Issue — Arguments — Facts

Purpose: Review motivation for Case Study Analysis

Procedures: 1. Place a series of statements on separate index cards concerning facts, issues, arguments.
2. Distribute cards among class members.
3. Select individual groups of legal sleuths. Groups select an investigator to go to each of the other groups to argue relevant facts that would help them solve the mystery.
4. The ultimate objective is for each group to be able to determine the relevant facts in the case, the primary (specific) constitutional issue and the relevant arguments for the appellant and appellee.

Evaluation: This activity is primarily designed as a fun method for synthesizing the elements of a Case Study.

A VISITOR FROM OUTER SPACE

You are quietly watching television with your family when a special news bulletin comes over the TV station. You immediately see that this is not the normal type of news bulletin because there is what looks like a very strange creature on the screen — the only thing which is familiar is that he is speaking in English. He tells you that he and his people have gained control over all of the communications networks in the United States and that everyone had better pay attention to what he has to say. You change the channel, and just as he said, there he is on every station. He begins to speak very loudly and you gather your family around because you are beginning to worry about what he is going to do. His speech is as follows:

> "My name is STHGIR and I am from the planet NOITUTITSNOC in another galaxy where the inhabitants are far superior to the beings on this planet EARTH. Just as we have gained control over the communications of the United States, we have the ability to take complete control over every one of your lives. We do not want a war between our planet and yours, but we do want to control some things so that we can live in peace and harmony with you. We have looked at some of your laws and the way your government operates and have found it gives too much freedom to the individual. Therefore, we are going to conduct a survey to try and arrive at a decision in which both you and I are happy. As I have said, I do not want to take everything away from you — but I can't allow you to continue to live as you have in the past. Therefore, I am giving you a list of ten of the rights which you now have according to your Constitution. You are to look over the list and decide which of the ten are most important to you. I will allow you to keep FIVE of the ten rights — the five which get the most votes from all citizens of the United States. You are to read the following rights in the order in which you would give them up and 1 being the one you would give up last, and 10 being the one you would give up first. After you have completed your ranking, you will receive further instructions."

_____Right to bear arms
_____Right to freedom of speech
_____Right to legal counsel
_____Right to protection from cruel and unusual punishment
_____Right to freedom of press
_____Right to a jury trial
_____Right to freedom of religion
_____Right to peacefully assemble
_____Right to privacy
_____Right to protection from self-incrimination

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APPENDIX B

THE CONSTITUTION OF THE UNITED STATES

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THE CONSTITUTION OF THE UNITED STATES

THE CONSTITUTION OF THE UNITED STATES OF AMERICA

We the people of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

ARTICLE I

SECTION 1. All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

SECTION 2. The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

No person shall be a Representative who shall not have attained to the Age of twenty-five Years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen.

Representatives and direct Taxes shall be apportioned among the several States which may be included within the Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons. The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall by Law direct. The Number of Representatives shall not exceed one for every thirty Thousand, but each State shall have at Least one Representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to choose three, Massachusetts eight, Rhode Island and Providence Plantations one, Connecticut five, New York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

When vacancies happen in the Representation from any State, the Executive Authority thereof shall issue Writs of Election to fill such Vacancies.

The House of Representatives shall choose their Speaker and other Officers; and shall have the sole Power of Impeachment.

SECTION 3. The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six Years; and each Senator shall have one Vote.

Immediately after they shall be assembled in Consequence of the first Election, they shall be divided as equally as may be into three Classes. The Seats of the Senators of the first Class shall be vacated at the Expiration of the second Year, of the second Class at the Expiration of the fourth Year, and of the third Class at the Expiration of the sixth Year, so that one third may be chosen every second Year; and if Vacancies happen by Resignation, or otherwise, during the Recess of the Legislature of any State, the Executive thereof may make temporary Appointments until the next Meeting of the Legislature, which shall then fill such Vacancies.

No Person shall be a Senator who shall not have attained to the Age of thirty Years, and been nine Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State for which he shall be chosen.

The Vice President of the United States shall be President of the Senate, but shall have no Vote, unless they be equally divided.

The Senate shall choose their other Officers, and also a President pro tempore, in the absence of the Vice President, or when he shall exercise the Office of President of the United States.

The Senate shall have the sole Power to try all Impeachments. When sitting for that Purpose, they shall be on Oath or Affirmation. When the President of the United States is tried, the Chief Justice shall preside: And no Person shall be convicted without the Concurrence of two thirds of the Members present.

Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of honor, Trust or Profit under the United States: but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to law.

SECTION 4. The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of Choosing Senators.

The Congress shall assemble at least once in every Year, and such Meeting shall be on the first Monday in December, unless they shall by Law appoint a different Day.

SECTION 5. Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members, and a Majority of each shall constitute a Quorum to do Business; but a smaller Number may adjourn from day to day, and may be authorized to compel the Attendance of absent Members, in such Manner, and under such Penalties as each House may provide.

Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behavior, and, with the Concurrence of two thirds, expel a Member.

Each House shall keep a Journal of its Proceedings, and from time to time publish the same, excepting such Parts as may in their Judgment require Secrecy; and the Yeas and Nays of the Members of either House on any question shall, at the Desire of one fifth of those Present, be entered on the journal.

Neither House, during the Session of Congress, shall, without the Consent of the other, adjourn for more than three days, nor to any other Place than that in which the two Houses shall be sitting.,

SECTION 6. The Senators and Representatives shall receive a Compensation for their Services, to be ascertained by Law, and paid out of the Treasury of the United States. They shall in all Cases, except Treason, Felony and Breach of the Peace, be privileged from Arrest during their Attendance at the Session of their respective Houses, and in going to and returning from the same; and for any Speech or Debate in either House, they shall not be questioned in any other Place.

No Senator or Representative shall, during the Time for which he was elected, be appointed to any civil Office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall have been increased during such time; and no Person holding any Office under the United States, shall be a Member of either House during his Continuance in Office.

SECTION 7. All Bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills.

Every Bill which shall have passed the House of Representatives and the Senate, shall, before it becomes a Law, be presented to the President of the United States; If he approve he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. If after such Reconsideration two thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a law. But in all such Cases the Votes of both Houses shall be determined by Yeas and Nays, and the Names of the Persons voting for and against the Bill shall be entered on the Journal of each House respectively. If any Bill shall not be returned by the President within ten Days (Sundays excepted) after it shall have been presented to him, the Same shall be a Law, in like Manner as if he had signed it, unless the Congress by their Adjournment prevent its Return, in which Case it shall not be a Law.

Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States; and before the Same shall take Effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the Case of a Bill.

SECTION 8. The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defense and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;

To borrow Money on the Credit of the United States;

To regulate Commerce with foreign nations, and among the several States, and with the Indian Tribes;

To establish an uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States;

To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and measures;

To provide for the Punishment of counterfeiting the Securities and current Coin of the United States;

To establish Post Offices and post Roads;

To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries;

To constitute Tribunals inferior to the supreme Court;

To define and punish Piracies and Felonies committed on the high Seas, and Offenses against the Law of Nations;

To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water;

To raise and support Armies, but no Appropriation of Money to that use shall be for a longer Term than two years;

To provide and maintain a Navy;

To make Rules for the Government and Regulation of the land and naval Forces;

To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions;

To provide for organizing, arming, and disciplining the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress.

To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings; — And

To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Office thereof.

SECTION 9. The Migration or Importation of such Persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the Year one thousand eight hundred and eight, but a Tax or duty may be imposed on such Importation, not exceeding ten dollars for each Person.

The privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.

No Bill of Attainder or ex post facto Law shall be passed.

No Capitation, or other direct, Tax shall be laid, unless in Proportion to the Census or Enumeration herein before directed to be taken.

No Tax or Duty shall be laid on Articles exported from any State.

No Preference shall be given by any Regulation of Commerce or Revenue to the Ports of one State over those of another; nor shall Vessels bound to, or from, one State, be obliged to enter, clear, or pay Duties in another.

No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time.

No Title of Nobility shall be granted by the United States: And no Person holding any Office of Profit or Trust under them, shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State.

SECTION 10. No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility.

No State shall, without the Consent of the Congress, lay any Imposts or Duties on Imports or Exports, except what may be absolutely necessary for executing its inspection Laws: and the net Produce of all Duties and Imposts, laid by any State on Imports or Exports, shall be for the Use of the Treasury of the United States; and all such Laws shall be subject to the Revision and Control of the Congress.

No State shall, without the Consent of Congress, Lay any duty of Tonnage, keep Troops, or Ships of War in time of Peace, enter into any Agreement or Compact with another State, or with a foreign Power, or engage in War, unless actually invaded, or in such imminent Danger as will not admit of delay.

ARTICLE II

SECTION 1. The executive Power shall be vested in a President of the United States of America. He shall hold his Office during the Term of four years, and, together with the Vice President, chosen for the same Term, be elected, as follows

Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or Person holding an Office of Trust or Profit under the United States, shall be appointed an Elector.

The Electors shall meet in their respective States, and vote by Ballot for two persons, of whom one at least shall not be an Inhabitant of the same State with themselves. And they shall make a List of all the Persons voted for, and of the Number of Votes for each; which List they shall sign and certify, and transmit sealed to the Seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the Presence of the Senate and House of Representatives open all the Certificates, and the

Votes shall then be counted. The Person having the greatest Number of Votes shall be the President, if such Number be a Majority of the whole Number of Electors appointed; and if there be more than one who have such Majority, and have an equal Number of Votes, then the House of Representatives shall immediately choose by Ballot one of them for President; and if no Person have a majority, then from the five highest on the list and said House shall in like Manner choose the President. But in choosing the President, the Votes shall be taken by States, the Representation from each State having one Vote; A quorum for this Purpose shall consist of a Member or Members from two thirds of the States, and a Majority of all the States shall be necessary to a Choice. In every Case, after the Choice of the President, the Person having the greatest Number of Votes of Electors shall be the Vice President. But if there should remain two or more who have equal Votes, the Senate shall choose from them by Ballot the Vice President.

The Congress may determine the Time of choosing the Electors, and the Day on which they shall give their Votes; which Day shall be the same throughout the United States.

No person except a natural born Citizen, or a Citizen of the United States, at the time of the Adoption of this Constitution, shall be eligible to the Office of President; neither shall any Person be eligible to that Office who shall not have attained to the Age of thirty-five Years, and been fourteen Years a Resident within the United States.

In Case of the Removal of the President from Office, or of his Death, Resignation, or Inability to discharge the Powers and Duties of the said Office, the same shall devolve on the Vice President, and the Congress may by Law provide for the Case of Removal, Death, Resignation or Inability, both of the President and Vice President, declaring what Officer shall then act as President, and such Officer shall act accordingly, until the Disability be removed, or a President shall be elected.

The President shall, at stated Times, receive for his Services, a Compensation, which shall neither be increased nor diminished during the Period for which he shall have been elected, and he shall not receive within that Period any other Emolument from the United States, or any of them.

Before he enter on the Execution of his Office, he shall take the following Oath or Affirmation: "I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my Ability, preserve, protect and defend the Constitution of the United States."

SECTION 2. The President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States; he may require the Opinion, in writing, of the principal Officer in each of the executive Departments, upon any subject relating to the Duties of their respective Offices, and he shall have Power to Grant Reprieves and Pardons for Offenses against the United States, except in Cases of Impeachment.

He shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law; but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.

The President shall have Power to fill up all Vacancies that may happen during the Recess of the Senate, by granting Commissions which shall expire at the End of their next Session.

SECTION 3. He shall from time to time give to the Congress Information of the State of the Union, and recommend to their Consideration such Measures as he shall judge necessary and expedient; he may, on extraordinary Occasions, convene both Houses, or either of them, and in Case of Disagreement between them, with Respect to the Time of Adjournment, he may adjourn them to such Time as he shall think proper; he shall receive Ambassadors and other public Ministers; he shall take Care that the Laws be faithfully executed, and shall Commission all the Officers of the United States.

SECTION 4. The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.

ARTICLE III

SECTION 1. The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behavior, and shall, at stated Times, receive for their Services a Compensation which shall not be diminished during their Continuance in Office.

SECTION 2. The judicial Power shall extend to all Cases, in Law and Equity, arising under the Constitution, the Laws of the United States, and Treaties made, or which shall be made, under the Authority; — to all Cases affecting Ambassadors, other public Ministers and Consuls; — to all Cases of admiralty and maritime Jurisdiction; — to Controversies to which the United States shall be a Party; — to controversies between two or more States; — between a State and Citizens of another State; — between Citizens of different states; — between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.

The trial of all Crimes, except in Cases of Impeachment, shall be by Jury; and such Trial shall be held in the State where the said Crimes shall have been committed; but when not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed.

SECTION 3. Treasons against the United States, shall consist only in levying War against them, or in adhering to their Enemies, giving them Aid and Comfort. No Person shall be convicted of Treason unless on the Testimony of two Witnesses to the same overt Act, or on Confession in open Court.

The Congress shall have power to declare the Punishment of Treason, but no Attainder of Treason shall work Corruption of Blood, or Forfeiture except during the Life of the Person attained.

ARTICLE IV

SECTION 1. Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof.

SECTION 2. The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.

A Person charged in any State with Treason, Felony, or other Crime, who shall flee from Justice, and be found in another State, shall on demand of the executive Authority of the State from which he fled, be delivered up, to be removed to the State having Jurisdiction of the Crime.

No Person held to Service or Labor in one State, under the Laws thereof, escaping into another, shall in consequence of any Law or Regulation therein, be discharged from such Service or Labor, but shall be delivered up on Claim of the Party to whom such Service or Labor may be due.

SECTION 3. New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the Jurisdiction of any other State; nor any State be formed by the Junction of two or more States, or parts of States, without the Consent of the Legislatures of the States concerned as well as of the Congress.

The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State.

SECTION 4. The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion; and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic Violence.

ARTICLE V

The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as part of this constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress; Provided that no Amendment which may be made prior to the Year One thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth Section of the first Article; and that no State, without its Consent, shall be deprived of its equal Suffrage in the Senate.

ARTICLE VI

All Debts contracted and Engagements entered into, before the Adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation.

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.

ARTICLE VII

The Ratification of the Conventions of nine States shall be sufficent to the Establishment of this Constitution between the States so ratifying the Same.

Done in Convention by the Unanimous Consent of the States present the Seventeenth Day of September in the Year of our Lord one thousand seven hundred and Eighty seven and of the Independence of the United States of America the Twelfth. In Witness whereof We have hereunto subscribed our Names. [Signatures omitted.]

ARTICLES IN ADDITION TO, AND AMENDMENT OF, THE CONSTITUTION OF THE UNITED STATES OF AMERICA, PROPOSED BY CONGRESS, AND RATIFIED BY THE LEGISLATURE OF THE SEVERAL STATES, PURSUANT TO THE FIFTH ARTICLE OF THE ORIGINAL CONSTITUTION.

AMENDMENT I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

AMENDMENT II

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

AMENDMENT III

No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

AMENDMENT IV

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

AMENDMENT V

No Person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

AMENDMENT VI

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense.

AMENDMENT VII

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any Court of the United States, than according to the rules of the common law.

AMENDMENT VIII

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

AMENDMENT IX

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

AMENDMENT X

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

AMENDMENT XI [1798]

The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State.

AMENDMENT XII [1804]

The Electors shall meet in their respective states and vote by ballot for President and Vice President, one of whom, at least, shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as President, and in district ballots the person voted for as Vice President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate; — The President of the Senate shall, in presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted; — The person having the greatest number of votes for President, shall be the President, if such number be a majority of the whole number of Electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice President shall act as President, as in the case of the death or other constitutional disability of the President. — The person having the greatest number of votes as Vice President, shall be the Vice President, if such number be a majority of the whole number of Electors appointed, and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice President of the United States.

AMENDMENT XIII [1865]

SECTION 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

SECTION 2. Congress shall have power to enforce this article by appropriate legislation.

AMENDMENT XIV [1868]

SECTION 1. All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

SECTION 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

SECTION 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

SECTION 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slaves; but all such debts, obligations and claims shall be held illegal and void.

SECTION 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

AMENDMENT XV [1870]

SECTION 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

SECTION 2. The congress shall have power to enforce this article by appropriate legislation.

AMENDMENT XVI [1913]

The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration.

AMENDMENT XVII [1913]

The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof, for six years; and each Senator shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures.

When vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies: *Provided*, That the legislature of any State may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct.

This amendment shall not be so construed as to affect the election or term of any Senator chosen before it becomes valid as part of the Constitution.

AMENDMENT XVIII [1919]

SECTION 1. After one year from the ratification of this article the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes is hereby prohibited.

SECTION 2. The Congress and the several States shall have concurrent power to enforce this article by appropriate legislation.

SECTION 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress.

AMENDMENT XIX [1920]

The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex.

Congress shall have power to enforce this article by appropriate legislation.

AMENDMENT XX [1933]

SECTION 1. The terms of the President and Vice President shall end at noon on the 20th day of January, and the terms of Senators and Representatives at noon on the 3d day of January, of the years in which such terms would have ended if this article had not been ratified; and the terms of their successors shall then begin.

SECTION 2. The Congress shall assemble at least once in every year, and such meeting shall begin at noon on the 3d day of January, unless they shall by law appoint a different day.

SECTION 3. If, at the time fixed for the beginning of the term of the President, the President elect shall have died, the Vice President elect shall become President. If a President shall not have been chosen before the time fixed for the beginning of his term, or if the President elect shall have failed to qualify, then the Vice President elect shall act as President until a President shall have qualified; and the Congress may by law provide for the case wherein neither a President elect nor a Vice President elect shall have qualified, declaring who shall then act as President, or the manner in which one who is to act shall be selected, and such person shall act accordingly until a President or Vice President shall have qualified.

SECTION 4. The Congress may by law provide for the case of the death of any of the persons from whom the House of Representatives may choose a President whenever the right of choice shall have devolved upon them, and for the case of the death of any of the persons from whom the Senate may choose a Vice President whenever the right of choice shall have devolved upon them.

SECTION 5. Sections 1 and 2 shall take effect on the 15th day of October following the ratification of this article.

SECTION 6. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission.

AMENDMENT XXI [1933]

SECTION 1. The eighteenth article of amendment to the Constitution of the United States is hereby repealed.

SECTION 2. The transportation or importation into any State, Territory, or Possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.

SECTION 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by conventions in the several States, as provided in the Constitution, within seven years from the date of the submission thereof to the States by the Congress.

AMENDMENT XXII [1951]

SECTION 1. No person shall be elected to the office of the President more than twice, and no person who has held the office of President, or acted as President, for more than two years of a term to which some other person was elected President shall be elected to the office of the President more than once. But this Article shall not apply to any person holding the office of President when this Article was proposed by Congress, and shall not prevent any person who may be holding the office of President, or acting as President, during the term within which this Article becomes operative from holding the office of President or acting as President during the remainder of such term.

SECTION 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within several years from the date of its submission to the States by the Congress.

AMENDMENT XXIII [1961]

SECTION 1. The District constituting the seat of Government of the United States shall appoint in such manner as Congress may direct:

A number of electors of President and Vice President equal to the whole number of Senators and Representatives in Congress to which the District would be entitled if it were a State, but in no event more than the least populous State; they shall be in addition to those appointed by the States, but they shall be considered, for the purposes of the election of President and Vice President, to be electors appointed by a State; and they shall meet in the District and perform such duties as provided by the twelfth article of amendment.

SECTION 2. The Congress shall have power to enforce this article by appropriate legislation.

AMENDMENT XXIV [1964]

SECTION 1. The right of citizens of the United States to vote in any primary or other election for President or Vice President, for electors for President or Vice President, or for Senator or Representative in Congress, shall not be denied or abridged by the United States or any State by reason of failure to pay any poll tax or other tax.

SECTION 2. The congress shall have power to enforce this article by appropriate legislation.

AMENDMENT XXV [1967]

SECTION 1. In case of the removal of the President from office or of his death or resignation, the Vice President shall become President.

SECTION 2. Whenever there is a vacancy in the office of the Vice President, the President shall nominate a Vice President who shall take office upon confirmation by a majority vote of both Houses of Congress.

SECTION 3. Whenever the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that he is unable to discharge the powers and duties of his office, and until he transmits to them a written declaration to the contrary, such powers and duties shall be discharged by the Vice President as Acting President.

SECTION 4. Whenever the Vice President and a majority of either the principal officers of the executive departments or of such other body as Congress may by law provide, transmit to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office, the Vice President shall immediately assume the powers and duties of the office as Acting President.

Thereafter, when the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that no inability exists, he shall resume the powers and duties of his office unless the Vice President and a majority of either the principal officers of the executive department or of such other body as Congress may by law provide, transmit within four days to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office. Thereupon Congress shall decide the issue, assembling within forty-eight hours for that purpose if not in session. If the Congress, within twenty-one days after receipt of the latter written declaration, or, if Congress is not in session, within twenty-one days after Congress is required to assemble, determines by two-thirds vote of both Houses that the President is unable to discharge the powers and duties of his office, the Vice President shall continue to discharge the same as Acting President; otherwise, the President shall resume the powers and duties of his office.

AMENDMENT XXVI [1971]

SECTION 1. The right of citizens of the United States, who are eighteen years of age or older, to vote shall not be denied or abridged by the United States or by any State on account of age.

SECTION 2. The Congress shall have power to enforce this article by appropriate legislation.

APPENDIX C

GLOSSARY OF LEGAL TERMS

A

ABSTRACT OF RECORD—An abbreviated but complete history of a case.

ACTION—Lawsuit; the legal demand for one's right asserted in Court.

ACTION IN PERSONAM (in per-sō-nam)—A lawsuit against a person based on personal liability.

ACTION IN REM (in rem)—A lawsuit to determine title to property.

ADJUDICATION—Giving a judgment or decree; also the judgment given.

ADVANCE SHEETS—Unbound copies of cases that will later be sent in bound form.

ADVERSARY SYSTEM—The system of trial practice in the U.S. and some other countries in which each of the opposing, or adversary parties has full opportunity to present and establish its opposing contentions before the Court.

AFFIRM—When a higher Court declares that a lower Court's action was valid and correct.

ALLEGATION—The assertion, declaration, or statement of a party to an action, made in a pleading, setting out what he expects to prove.

AMICUS CURIAE (a-mi-kus ku-ri,i)—A friend of the Court; one who interposes and volunteers information upon some matter of law.

ANSWER—A pleading by which defendant tries to dispute the plaintiff's right to recover by controverting the facts alleged by the plaintiff or the principle of law relied on by him, or both; or by asserting some defense which relieves the defendant of liability.

APPEAL—To take a case to a higher Court for review.

APPEARANCE—The formal proceeding by which a defendant submits himself to the jurisdiction of the Court.

APPELLANT (a-pel-ánt)—The party appealing a decision or judgment to a higher Court.

APPELLATE COURT—A Court which hears appeals and reviews lower Court decisions, generally on the lower Court record only.

APPELLEE (ap-elé)—The successful party in the lower Court against whom an appeal is taken.

ARRAIGNMENT—In criminal practice, to bring the prisoner to Court in person to answer a charge.

AT ISSUE—Parties to a suit are at issue when they reach a point in the pleadings at which facts are alleged to exist by one side and are denied by the other.

ATTORNEY OF RECORD—Attorney whose name appears in the permanent records or files of a case.

B

BAIL—Cash or other security placed on deposit with the Court to obtain the release of an arrested or imprisoned person and to guarantee his reappearance before the Court on a specific day.

BAIL BOND—A Financial obligation signed by the accused and those who serve as sureties to guarantee his future appearance in Court.

BALIFF—A Court attendant who keeps order and is responsible for the custody of the jury.

BENCH WARRANT—An order issued by the Court, ("from the bench") for the attachment or arrest of a person.

BEST EVIDENCE—Primary evidence; the best evidence which is available; any evidence falling short of this standard is secondary; i.e., an original letter is best evidence compared to a copy.

BILL OF PARTICULARS—A detailed statement of an event or item referred to in another legal paper.

BINDING INSTRUCTION—One in which the jury is told if they find certain conditions to be true they must find for the plaintiff, or defendant, as case might be.

BIND OVER—To hold on bail for trial.

BRIEF—A written or printed document prepared by counsel to file in Court, usually setting forth both facts and law in support of his case.

BURDEN OF PROOF—In the law of evidence, the necessity or duty of proving a fact or facts in dispute.

C

CAPTION—The caption of a pleading, or other papers connected with a case in Court, is the heading or introductory clause which shows the names of the parties, name of the Court, number of the case, etc.

CAUSE—A suit, litigation or action—civil or criminal.

CERTIORARI (ser shi-o-rári)—An order commanding judges or officers of a lower Court to certify the record of a case for judicial review by an appellate Court.

CHALLENGE FOR CAUSE—An objection to the qualifications of a juror for which a reason is given; usually on grounds of personal acquaintance with one of the parties or the existence of a bias which may affect the verdict.

CHALLENGE TO THE ARRAY—Questioning the qualifications of an entire jury panel, usually on the grounds of partiality or some fault in the process of summoning the panel.

CHAMBERS—Private office or room of a judge.

CHANGE OF VENUE—The removal of a suit begun in one county or district to another, for trial, or from one Court to another in the same county or district.

CIRCUMSTANTIAL EVIDENCE—All evidence of indirect nature; the process of decision by which Court or jury may reason from circumstances known or proved to establish by inference the principal fact.

COMITY—Courtesy, respect; usually used in the legal sense to refer to the proper relationship between state and federal Courts.

COMMIT—To send a person to prison, mental health facility, workhouse, or reformatory by lawful authority.

COMMON LAW—Law which derives its authority solely from usages and customs of immemorial antiquity or from the judgment and decrees of Courts.

COMMUTATION—The change of a punishment from a greater degree to a lesser degree, as from death to life imprisonment.

COMPARATIVE NEGLIGENCE—The doctrine by which acts of the opposing parties are compared to determine the proportion of liability which each shares for the injury which is the basis of the action.

COMPETENCY—In the law of evidence the presence of those characteristics which render a witness legally fit and qualified to give testimony.

COMPLAINANT—Synonymous with "plaintiff."

COMPLAINT—The first or initiatory pleading on the part of the complainant, or plaintiff, in a civil action.

CONCURRENT SENTENCE—Sentences for more than one crime in which the time of each is to be served concurrently, rather than successively.

CONTEMPT OF COURT—Any act calculated to embarrass, hinder, or obstruct a Court in the administration of justice, or calculated to lessen its authority or dignity. Contempts are of two kinds: direct or indirect. Direct contempts are those committed in the immediate presence of the Court; indirect is the term chiefly used with reference to the failure or refusal to obey a lawful order.

CONTRACT—An exchange of oral or written promises between two or more parties to do or not to do a particular thing, enforceable by law.

CONTRIBUTORY NEGLIGENCE—A doctrine which prohibits recovery of damages by a plaintiff whose own behavior contributed even slightly to the event which caused the plaintiff's injuries—as distinguished from comparative negligence.

CORPUS DELICTI (kor'pus de-lik'ti)—The object or thing upon which a crime has been committed, i.e., a body of a murdered person, the charred shell of a burned house.

CORROBORATING EVIDENCE—Additional evidence which tends to strengthen or confirm evidence already given.

COUNTERCLAIM—A claim presented by a defendant in opposition to the claim of a plaintiff.

COURTS OF RECORD—Those whose proceedings are permanently recorded, and which have the power to fine or imprison for contempt. Courts not of record are those of lesser authority whose proceedings are not permanently recorded.

CROSS EXAMINATION—The questioning of a witness in a trial, or in the taking of a deposition, by the party opposed to the one who produced the witness.

CUMULATIVE SENTENCE—Sentences for two or more crimes to run successively rather than concurrently.

D

DAMAGES—Compensation recoverable in Court by one who has suffered loss, detriment or injury to his person, property or rights due to the unlawful acts or negligence of others.

DE FACTO—In fact. In reality.

DE NOVO (de no'vo)—Anew, afresh. A "trial de novo" is retrial.

DECLARATORY JUDGMENT—One which declares the rights of the parties or expresses the opinion of the Court on a question of law, without necessarily ordering anything to be done.

DECREE—A decision or order of the Court. A final decree is one which fully and finally disposes of the litigation; an interlocutory decree is a provisional or preliminary decree which is not final.

DEFAULT—A "default" in action of law occurs when a defendant omits to plead within the time allowed or fails to appear at the trial.

DEFENDANT—In a civil action, the party denying or defending itself against charges brought by a plaintiff. In a criminal action, the person indicted for an offense.

DE JURE—As a result of law, as a result of official action.

DEMUR (de mé)—To file a pleading (called "a demurrer") admitting the truth of the facts in the complaint or answer, but contending they are legally insufficient.

DEPOSITION—The testimony of a witness, not taken in open Court, in pursuance of authority given by statute or rule of Court to take testimony elsewhere.

DICTA—Opinions of a judge that are not a central part of the judge's decision.

DIRECT EVIDENCE—Proof of facts by witnesses who saw acts done or heard words spoken, as distinguished from circumstantial evidence, which is called indirect.

DIRECT EXAMINATION—The first interrogation of a witness by the party on whose behalf he is called.

DIRECTED VERDICT—An instruction by the judge to the jury to return a specific verdict.

DISCOVERY—A proceeding whereby one party to an action may be informed as to facts known by other parties or witnesses.

DISMISSAL WITHOUT PREJUDICE—Permits the complainant to sue again on the same cause of action, while dismissal "with prejudice" bars the right to bring or maintain an action on the same claim or cause.

DISSENT—A term commonly used to denote the disagreement of one or more judges of a Court with the decision of the majority.

DOUBLE JEOPARDY—Common law and constitutional prohibition against more than one prosecution for the same crime, transaction or omission.

DUE PROCESS—Law in its regular course of administration through the Courts of justice. The guarantee of due process requires that every person have the protection of a fair trial.

E

ENJOIN—To require a person, by writ of injunction from a Court of equity, to perform, or to abstain or desist from some act.

ENTRAPMENT—The act of officers or agents of a government in inducing a person to commit a crime not contemplated by him, for the purpose of instituting a criminal prosecution against him.

ERGO—Therefore.

ERROR, WRIT OR—A writ issued from an appeals Court to a lower Court requiring it to send to the appeals Court the record of a case in which it has entered a final judgment and which the appeals Court will now review for error.

ESCHEAT (es-chēt)—The right of the state to appropriate property to which no one else has a valid claim.

ESCROW (eś krō)—A writing, deed, fund or object delivered by one person to another to be held until specified acts are performed or certain conditions are met, and then to be disposed of as directed under the terms of the escrow.

ESTOPPEL (es-top´el)—A person's own act, or acceptance of facts, which preclude his later making claims to the contrary.

ET AL.—An abbreviation of et alii, meaning "and others."

ET SEQ.—An abbreviation for et sequentes, or et sequentia, meaning "and the following."

EX CONTRACTU (ex kon-trak tu)—In both civil and common law, rights and causes of action are divided into two classes: those arising ex contractu (from a contract) and ex delicto (from a wrong or tort).

EX DELICTO (ex de-litō)—Rights and causes of action arising from a wrong or "tort".

EX PARTE (ex pař te)—By or for one party; done for, in behalf of, or on the application of, one party only, without notice to the other.

EX POST FACTO (ex pōst fak´ to)—After the fact; an act or fact occurring after some previous act or fact, and relating thereto.

EX REL.—Upon information from; usually used to describe legal proceedings begun by an official in the name of the state, but at the instigation of, and with information from a private individual interested in the matter.

EXCEPTION—A formal objection to an action of the Court during the trial of a case, in refusing a request or overruling an objection; implying that the party excepting does not acquiesce in the decision of the Court, but will seek to procure its reversal.

EXHIBIT—A paper, document or other article produced and exhibited to a Court during a trial or hearing.

EXPERT EVIDENCE—Testimony given in relation to some scientific, technical, or professional matter by experts, i.e., persons qualified to speak authoritatively by reason of their special training, skill, or familiarity with the subject.

EXTENUATING CIRCUMSTANCES—Circumstances which render a crime less aggravated, heinous, or reprehensible than would otherwise be.

F

FAIR PREPONDERANCE—Evidence sufficient to create in the minds of the triers of fact the belief that the party which bears the burden of proof has established its case.

FALSE ARREST—Any unlawful physical restraint of another person, in prison or elsewhere.

FALSE PRETENSES—Misrepresentation in order to obtain another's money or goods.

FELONY—A crime of a graver nature than a misdemeanor. Generally, an offense punishable by death or imprisonment in excess of one year.

FIDUCIARY—A trustee; one who has the duty to act primarily for the benefit of another with respect to the subject matter of the trust.

FRAUD—An intentional perversion of truth; deceitful practice of device resorted to with intent to deprive another of some property or other right, or in some manner to do him injury.

G

GENERAL DEMURRER—A demurrer which raises the question whether the pleading against which it is directed lacks the definite allegations essential to a cause of action, or defense.

GRAND JURY—(See JURY, GRAND)

GUARDIAN AD LITEM (ad lī tem)—A person appointed by a Court to look after the interests of an infant or incompetent whose property is involved in litigation.

H

HABEAS CORPUS (hā be-as kor pus)—"You have the body." The name given a variety of writs whose object is to bring a person before a Court or judge. In most common usage, it is directed to the official or person detaining another, commanding him to produce the body of the prisoner or person detained so the Court may determine if such a person has been denied his liberty without due process of the law.

HARMLESS ERROR—In appellate practice, an error committed by a lower Court during a trial, but not prejudicial to the rights of the party and for which the Court will not reverse the judgment.

HEARSAY—Evidence not proceeding from the personal knowledge of the witness.

HOSTILE WITNESS—A witness who is subject to cross-examination by the party who called him to testify because of his evident antagonism toward that party as exhibited in his direct examination.

HYPOTHETICAL QUESTION—A combination of facts and circumstances, assumed or proved, stated in such a form as to constitute a coherent state of facts upon which the opinion of an expert can be asked by way of evidence in a trial.

I

IMPEACHMENT OF WITNESS—An attack on the credibility of a witness, as by the testimony of other witnesses or evidence of prior bad conduct or criminal convictions.

IMPLIED CONTRACT—A contract in which the promise made by the obligor is not express, but inferred by his conduct or implied in law.

IMPUTED NEGLIGENCE—Negligence which is not directly attributable to the person himself, but which is the negligence of a person who is in privity (has a particula legal relationship) with him, and with whose fault he is chargeable.

IN RE—In the affair of, concerning. Frequent title of judicial proceedings in which there are no adversaries, but rather where the matter itself requires judicial action.

INADMISSIBLE—That which, under the established rules of evidence, cannot be admitted or received.

IN CAMERA (in kaḿ e-ra)—In chambers; in private.

INDETERMINATE SENTENCE—An indefinite sentence of "not less than" and "not more than" so many years, the exact term to be served being afterwards determined by parole authorities within the minimum and maximum limits set by the Court or by statute.

INDICTMENT—An accusation in writing found and presented by a grand jury, charging that a person therein named has done some act, or been guilty of some omission, which by law, is a crime.

INFORMATION—An accusation of some criminal offense, in the nature of an indictment, but which is presented by a competent public officer instead of a grand jury.

INJUNCTION—A mandatory or prohibitive writ issued by a Court.

INSTRUCTION—A direction given by the judge to the jury concerning the law of the case.

INTER ALIA (in ter á li-a)—Among other things or matters.

INTER ALIOS (in ter á li-os)—among other persons; between others.

INTERLOCUTORY—Provisional; temporary; not final. Refers to orders and decrees of a Court.

INTERROGATORIES—Written questions propounded by one party and served on an adversary, who must provide written answers under oath.

INTESTATE—One who dies without leaving a will.

IRRELEVANT—Evidence not relating or applicable to the matter in issue; not supporting the issue.

J

JURAT—A clause in an affidavit or information stating when, where and before whom the document was sworn to or affirmed.

JURISDICTION—The power of the Court to hear a case in question, which exists when the proper parties are present, and when the point to be decided is within the issues authorized to be handled by the particular Court.

JURY—A certain number of persons selected according to law, and sworn to inquire of certain matters of fact, and declare the truth upon evidence laid before them.

GRAND JURY—A jury of inquiry whose duty is to receive complaints and accusations in criminal cases, hear the evidence and find bills of indictment in cases where they are satisfied that there is probable cause that a crime was committed and that a trial ought to be held.

PETIT JURY—The ordinary jury of twelve (or fewer) persons for the trial of a civil or criminal case. So called to distinguish it from the grand jury.

L

LEADING QUESTION—One which instructs a witness how to answer or puts into his mouth words to be echoed back; one which suggests to the witness the answer desired. Prohibited on direct examination.

LIMITATION—A certain time allowed by statute in which litigation must be brought.

LIS PENDENS (lis peń denz)—A pending suit. Also, a lien on property.

LOCUS DELICTI (lō kus de-liḱ ti)—The place of the offense.

M

MALFEASANCE (mal-fē zans)—Evil doing; ill conduct; the commission of some act which is positively prohibited by law.

MANDAMUS (man-dā mus)—The name of a writ which issues from a Court of superior jurisdiction, directed to an inferior Court or to a public officer, commanding the performance of a particular act.

MANDATE—A judicial command or precept proceeding from a Court or judicial officer, directing the proper officer to enforce a judgment, sentence, or decree.

MANSLAUGHTER—The unlawful killing of another without malice; may be either voluntary upon a sudden impulse, or involuntary in the commission of some unlawful act.

MISDEMEANOR—Offenses less than felonies; generally those punishable by fine or imprisonment for a term of one year or less.

MISFEASANCE—A misdeed or trespass; the improper performance of some act which a person may lawfully do.

MISTRIAL—An erroneous or invalid trial; a trial which cannot stand in law because of lack of jurisdiction, wrong drawing of jurors, or disregard of some other fundamental requisite.

MITIGATING CIRCUMSTANCE—One which does not constitute a justification or excuse for an offense, but which may be considered as reducing the degree of moral culpability.

MOOT—Unsettled; undecided; not necessary to be decided. A moot point is one not settled by judicial decisions.

MORAL TURPITUDE—Conduct contrary to honesty, modesty, or good morals.

MULTIPLICITY OF ACTIONS—Numerous and unnecessary attempts to litigate the same right.

MURDER—The unlawful killing of a human being by another with malice aforethought, either express or implied.

N

NE EXEAT (nē ek sē-at)—A writ which forbids the person to whom it is addressed to leave the country, the state, or the jurisdiction of the Court.

NEGLIGENCE—The failure to do something which a resonable man, guided by ordinary considerations, would do; or the doing of something which a reasonable and prudent man would not do.

NISI PRIUS (nī si prī us)—Courts for the initial trial of issues of fact, as distinguished from appellate Courts.

NO BILL—This phrase, endorsed by a grand jury on the indictment, is equivalent to "not found" or "not a true bill". It means that, in the opinion of the jury, evidence was insufficient to warrant the return of a formal charge.

NOLLE PROSEQI (ol e pros e-kwi)—A formal entry upon the record by the plaintiff in a civil suit, or the prosecuting officer in a criminal case, by which he declares that he "will not further prosecute" the case.

NOLO CONTENDERE (nō lo kon-ten de re)—A pleading, usually used by defendants in criminal cases, which literally means "I will not contest it."

NON COMPOS MENTIS (non, kom pos)—Not sound of mind; insane.

NON OBSTANTE VERDICTO (non ob-stan tē ve-re-dik to)—Notwithstanding the verdict. A judgment entered by order of Court for one party, although there has been jury verdict against him.

O

OBJECTION—The act of taking exception to some statement or procedure in trial. Used to call the Court's attention to improper evidence or procedure.

OF COUNSEL—A phrase commonly applied to counsel employed to assist in the preparation or management of the case, or its presentation on appeal, but who is not the principal attorney of record.

OPINON EVIDENCE—Evidence of what the witness thinks, believes, or infers in regard to facts in dispute, as distinguished from his personal knowledge of the facts; not admissible except (under certain limitations) in the case of experts.

OUT OF COURT—One who has no legal status in Court is said to be "out of Court," i.e., he is not before the Court. For example, when a plaintiff, by some act of omission or commission, shows that he is unable to maintain his action, he is frequently said to have put himself "out of Court."

P

PANEL—A list of jurors to serve in a particular Court, or for the trial of a particular action: denotes either the whole body of persons summoned as jurors for a particular term of Court or those selected by the clerk by lot.

PAROLE—The conditional release from prison of a convict before the expiration of his sentence. If he observes the conditions, the parolee need not serve the remainder of his sentence.

PARTIES—The persons who are actively concerned in the prosecution or defense of a legal proceeding.

PER CURIAM—"By the Court." An unsigned opinion of the Court or an opinion written by the whole Court.

PREEMPTORY CHALLENGE—The right of parties in criminal and civil cases to dismiss a prospective juror without giving any reason. The number of such challenges is limited by statute.

PETITIONER—One who files a petition with a Court seeking action or relief. When a writ of certiorari is granted by the Supreme Court, the parties to the case are called petitioner and respondent in contrast to appellant and appellee used in an appeal.

PLAINTIFF—A person who brings a civil action; the party who complains or sues.

PLEADING—The process by which the parties in a suit or action alternately present written statements of their contentions, each responsive to that which precedes, and each serving to narrow the field of controversy, until there evolves one or more points, affirmed on one side and denied on the other, called the issue upon which they then go to trial.

POLLING THE JURY—Asking jurors individually whether they assented and still assent to the verdict announced by the foreman.

POWER OF ATTORNEY—Authorization for one person to act as another's agent or attorney.

PRAECIPE (pré si-pe)—An original writ commanding the defendant to do the thing required; also, an order addressed to the clerk of a Court, requesting him to issue a particular writ.

PREJUDICIAL ERROR—Synonymous with "reversible error"; an error which warrants the appellate Court to reverse the judgment before it.

PRELIMINARY HEARING—Synonymous with "preliminary examination"; the hearing given a person charged with a crime by a magistrate or judge to determine whether he should be held for trial. Since the Constitution states that a person cannot be accused in secret, a preliminary hearing is open to the public unless the defendant requests that it be closed. The accused person must be present at this hearing and must be accompanied by an attorney.

PREPONDERANCE OF EVIDENCE—The greater weight (in terms of quality not quantity) of evidence, or that evidence which is more believable and convincing.

PRESUMPTION OF FACT—An inference as to the truth or falsity of any proposition of fact, drawn by a process of reasoning in the absence of actual certainty of its truth or falsity, or until such certainty can be ascertained.

PRESUMPTION OF LAW—A rule of law that Courts and judges shall draw a particular inference from a particular fact, or from particular evidence.

PRIMA FACIE—At first sight; referring to a fact or other evidence presumably sufficient to establish a defense or a claim unless otherwise contradicted.

PROBATE—The act or process of providing a will.

PROBATION—In criminal law to allow one convicted of a crime to go free while his prison sentence is suspended during good behavior, generally under the supervision of a probation officer.

PRO SE—For himself, in his or her own behalf.

PROSECUTOR—A public officer whose duty is the prosecution of criminal proceedings on behalf of the people.

R

REASONABLE DOUBT—An accused person is entitled to acquittal if, in the minds of the jury, guilt has not been proved beyond a "reasonable doubt"; that state of the minds of jurors in which they cannot say they feel an abiding conviction as to the truth of the charge.

REBUTTAL—The introduction of answering evidence; proof by one party disputing proof provided by its adversary; also, the stage of a trial when such evidence is introduced.

REDIRECT EXAMINATION—Follows cross-examination and is exercised by the party who first examined the witness.

REFEREE—A person to whom a cause pending in a Court is referred by the Court to take testimony, hear the parties, and report therein to the Court. An officer exercising judicial powers and who functions as an arm of the Court for a specific purpose.

REMAND—To send back. In the event of a decision being remanded, it is sent back by a higher Court to the Court from which it came for further action.

REMOVAL, ORDER OF—An order by a Court directing the transfer of a cause to another Court.

REPLY—When a case is tried or argued in Court, the argument of the plaintiff in answer to that of the defendant. A pleading in response to an answer.

RESPONDENT—One who is compelled to answer the claims or questions posed in Court by a petitioner.

REST—A party is said to "rest" or "rest his case" when he has presented all the evidence he intends to offer.

RETAINER—Act of the client in employing his attorney or counsel, and also denotes the fee which the client pays when he retains the attorney to act for him.

RIPE—A case is ready for the U.S. Supreme Court if the legal issues involved are clear enough and well evolved and presented so that a clear decision can come out of the case.

RULE OF COURT—An order made by a Court having competent jurisdiction. Rules of Court are either general or special: the former are the regulations by which the practice of the Court is governed; the latter are special orders made in particular cases.

RULE NISI, OR RULE TO SHOW CAUSE (ni si)—A Court order obtained on motion by either party to show cause why the particular relief sought should not be granted.

S

SEARCH AND SEIZURE, UNREASONABLE—In general, an unlawful search of one's premises or person; a search which is unreasonably oppressive in its invasion of privacy.

SEARCH WARRANT—A written order from a justice or magistrate directing an officer to search a specific place for a specific object, issued upon a showing of probable cause.

SELF-DEFENSE—The protection of one's person or property, against some injury attempted by another. The law of "self defense" justifies an act done in the reasonable belief of immediate danger. When acting in justifiable self-defense, a person may not be punished criminally nor held responsible for civil damages.

SEPARATION OF WITNESSES—An order of the Court requiring all witnesses to remain outside the Courtroom until each is called to testify, except the plaintiff or defendant.

SHERIFF—An officer of a county whose principal duties are to aid the criminal and civil Courts and act as chief preserver of the peace in many places. Sheriffs serve processes, may summon juries, executes judgments and holds judicial sales.

SINE QUA NON (sí ne kwâ non)—Indispensable; that without which something cannot be.

STANDING—A person's right to bring a lawsuit because he or she is directly affected by the issue raised.

STARE DECISIS (stá re desí sis)—A doctrine that, when a Court has once laid down a principal of law as applicable to a certain set of facts, it will adhere to that principle and apply it to future cases where the facts are substantially the same.

STATE'S EVIDENCE—Testimony given by an accomplice or participant in a crime, tending to convict others.

STATUTE—The written law in contradistinction to the unwritten law.

STAY—A stopping or arresting of a judicial proceeding by order of the Court.

STIPULATION—An agreement by attorneys on opposite sides of a case as to any matter pertaining to the proceedings or trial. It is not binding unless assented to by the parties, and most stipulations must be in writing.

SUBPOENA (su-pē'na)—A process to cause a witness to appear and give testimony before a Court or magistrate.

SUBPOENA DUCES TECUM (su pē'na dú seź tékum)—A process by which the Court commands a witness to produce certain documents or records in a trial.

SUBSTANTIVE LAW—The law dealing with rights, duties and liabilities as distinguished from adjective law, which is the law regulating procedure.

SUMMONS—A notification to the named person that an action has been commenced against him in Court and that he is required to appear, on the day named, and answer the complaint in such action.

T

TESTATOR OR TESTATRIX—The maker of a written will. A person who dies without leaving a written will dies "intestate."

TESTIMONY—Evidence given by a competent witness, under oath; as distinguished from evidence derived from writings and other sources,

TORT—An injury or wrong committed, either with or without force, to the person or property of another.

TRANSCRIPT—The official record of proceedings in a trial or hearing.

TRIAL DE NOVO (de nō vo)—A new trial or retrial held in a higher Court in which the whole case is gone into as if no trial had been held in a lower Court.

TRUE BILL—In criminal practice, the endorsement made by a grand jury upon a bill of indictment when they find sufficient evidence to warrant a criminal charge.

U

UNDUE INFLUENCE—Whatever destroys free will and causes a person to do something he would not do if left to himself.

UNLAWFUL DETAINER—A retention or withholding of real estate without the consent of the owner or other person entitled to its possession.

V

VACATE—To make void, annul or rescind.

VENIRE (ve-ní rē)—Technically, a writ summoning persons to Court to act as jurors; popularly used as meaning the body of names thus summoned.

VENIREMEN (ve·ní rė·men)—Members of a panel of jurors.

VENUE (veń u)—The particular county, city or geographical area in which a Court with jurisdiction may hear and determine a case.

VERDICT—In practice, the formal decision or finding made by a jury, reported to the Court and accepted by it.

VOIR DIRE (vwor dėr)—To speak the truth. The phrase denotes the preliminary examination which the Court may make of one presented as a witness or juror, as to his qualifications.

W

WAIVER OF IMMUNITY—A means authorized by statutes by which a witness, in advance of giving testimony or producing evidence, may renounce the fundamental right guaranteed by the Constitution that no person shall be compelled to be a witness against himself, frequently demanded of a public official.

WARRANT OF ARREST—A writ by a magistrate, justice or other competent authority, to a sheriff, or other officer, requiring him to arrest a person therein named and bring him before the magistrate or Court to answer to a specified charge.

WEIGHT OF EVIDENCE—The balance of preponderance of evidence; the inclination of the greater amount of credible evidence, offered in a trial, to support one side of the issue rather than the other.

WITH PREJUDICE—The term, as applied to judgment of dismissal, which makes the disposition of the case as conclusive of rights of the parties as if action had been prosecuted to final adjudication adverse to the plaintiff.

WITHOUT PREJUDICE—A dismissal "without prejudice" allows a new suit to be brought on the same cause of action.

WITNESS—One who testifies to what he has seen, heard, or otherwise observed.

WRIT—An order issuing from a Court of justice and requiring the performance of a specified act, or giving authority and commission to have it done.

WRIT OF ERROR CORAM NOBIS (kó ram nō bis)—A common-law writ, the purpose of which is to correct a judgment in the same Court in which it was rendered, on the ground of error of fact.